

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
PLAINTIFF, )  
VS. )  
RAMESH "SUNNY" BALWANI, )  
DEFENDANT. )  
) CR-18-00258-EJD  
) SAN JOSE, CALIFORNIA  
) APRIL 6, 2022  
) VOLUME 14  
) PAGES 2177 - 2443

TRANSCRIPT OF TRIAL PROCEEDINGS  
BEFORE THE HONORABLE EDWARD J. DAVILA  
UNITED STATES DISTRICT JUDGE

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY  
TRANSCRIPT PRODUCED WITH COMPUTER

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1 SAN JOSE, CALIFORNIA

APRIL 6, 2022

## 2 P R O C E E D I N G S

3 (COURT CONVENED AT 8:50 A.M.)

08:50AM 4 (JURY OUT AT 8:50 A.M.)

08:50AM 5 THE COURT: THANK YOU. PLEASE BE SEATED. WE ARE ON

08:50AM 6 THE RECORD OUTSIDE OF THE PRESENCE OF THE JURY.

08:50AM 7 ALL COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

08:50AM 8 I JUST WANTED TO CHAT JUST A MOMENT ABOUT THIS ISSUE THAT

08:50AM 9 WE LEFT ON YESTERDAY THAT WE'RE GOING TO DISCUSS ABOUT THE

08:50AM 10 LETTERS AND WHETHER OR NOT AND HOW THOSE WOULD COME IN.

08:50AM 11 I KNOW MR. SCHENK MENTIONED THAT MIGHT BE AN ISSUE WITH AN

08:50AM 12 ADDITIONAL WITNESS THAT WAS GOING TO COME UP.

08:50AM 13 AND I KNOW MS. VOLKAR ARGUED THE MOTION. I DON'T SEE HER

08:50AM 14 IN THE COURTROOM RIGHT NOW. WE CAN GET HER IF WE NEED TO.

08:50AM 15 BUT I JUST WANTED TO SHARE SOME THOUGHTS AND ASK SOME

08:50AM 16 QUESTIONS.

08:50AM 17 MR. SCHENK, DID YOU WANT TO RETRIEVE HER OR COLLECT HER?

08:50AM 18 MR. SCHENK: THANK YOU, YOUR HONOR.

08:51AM 19 MS. VOLKAR GAVE US PERMISSION TO SHARE WITH THE COURT, SHE

08:51AM 20 IS A LITTLE UNDER THE WEATHER AND HAS BEEN FOR A FEW DAYS.

08:51AM 21 SHE'S BEEN TESTING NEGATIVE, BUT TO BE SAFE, SHE WANTED TO STAY

08:51AM 22 OUT OF THE COURTHOUSE.

08:51AM 23 THE COURT: SURE. OKAY. WELL, THANK YOU.

08:51AM 24 WELL, MR. BRECHER IS HERE, AND HE ARGUED THE MOTION, SO

08:51AM 25 THANK YOU FOR BEING HERE.

08:51AM 1 BUT THIS MORNING, AT SOME POINT, AS I UNDERSTAND IT,

08:51AM 2 MS. CULLEN WILL TESTIFY, AND SHE'S THE SCHERING-PLOUGH EMPLOYEE

08:51AM 3 AND MY SENSE IS THAT SHE WILL TESTIFY THAT SHE RECEIVED THESE

08:51AM 4 TWO DOCUMENTS, ONE ALTERED AND ONE UNALTERED, WE'LL JUST CALL

08:51AM 5 THEM FOR OUR DISCUSSION.

08:51AM 6 I'M INFORMED BY THE TRANSCRIPT FROM THE OTHER TRIAL AS TO

08:51AM 7 THAT LINE OF TESTIMONY, I THINK WE'RE ALL FAMILIAR WITH THAT.

08:51AM 8 SO I'M WONDERING IF -- LET'S TALK ABOUT THE UNALTERED

08:52AM 9 DOCUMENT, AND HELP ME OUT HERE.

08:52AM 10 THIS WAS A LETTER OR -- THAT WAS FOUND ON MR. BALWANI'S

08:52AM 11 COMPUTER AT WORK; IS THAT RIGHT? IS THAT HOW THAT CAME TO BE?

08:52AM 12 MR. SCHENK: SO EXHIBIT 259 IS A VERSION OF THE

08:52AM 13 VALIDATION REPORT THAT DOES NOT CONTAIN THE SCHERING-PLOUGH

08:52AM 14 LOGO THAT WAS SENT FROM THERANOS TO DR. CULLEN. SHE RECEIVED

08:52AM 15 THAT ONE PERSONALLY AND WILL SAY THIS WAS CREATED BY THERANOS,

08:52AM 16 IT'S THERANOS'S CONCLUSIONS, AND THERE IS NO SCHERING-PLOUGH

08:52AM 17 LOGO AFFIXED TO THE DOCUMENT.

08:52AM 18 THE COURT: AND THAT WAS RECEIVED BY HER FROM A

08:52AM 19 THERANOS EMPLOYEE.

08:52AM 20 WAS IT FRENZEL OR SOMETHING LIKE THAT?

08:52AM 21 MR. SCHENK: GARY FRENZEL.

08:52AM 22 THE COURT: YES, THAT'S RIGHT.

08:52AM 23 AND SHE'LL BE ASKED PRESUMABLY, DID YOU RECEIVE THIS?

08:53AM 24 YES.

08:53AM 25 RIGHT?

08:53AM 1 MR. SCHENK: CORRECT.

08:53AM 2 AND THEN SEPARATELY, EXHIBIT 291 IS A VERSION THAT SHE DID

08:53AM 3 NOT RECEIVE. 291 IS A VERSION THAT WAS SENT BY MS. HOLMES TO

08:53AM 4 WALGREENS WITH MR. BALWANI ON THE CC LINE.

08:53AM 5 THAT HAS AS AN ATTACHMENT THE SCHERING-PLOUGH DOCUMENT,

08:53AM 6 BUT THAT DOCUMENT HAD BOTH A SCHERING-PLOUGH LOGO AND WHAT IN

08:53AM 7 THE HOLMES TRIAL WE CALLED AN ENHANCED CONCLUSION.

08:53AM 8 AND DURING THE HOLMES TRIAL, WE SHOWED THAT VERSION TO

08:53AM 9 DR. CULLEN AND SHE SAID, I DID NOT AUTHORIZE AFFIXING THE LOGO,

08:53AM 10 THIS IS NOT MY CONCLUSION, AND I'M NOT AWARE OF ANYBODY AT

08:53AM 11 SCHERING-PLOUGH WHO AUTHORIZED EITHER THE LOGO OR THE

08:53AM 12 CONCLUSION.

08:53AM 13 THE COURT: AND WHAT IS WRONG WITH THAT,

08:53AM 14 MR. BRECHER?

08:53AM 15 MR. BRECHER: THERE ARE TWO PROBLEMS WITH THAT,

08:53AM 16 YOUR HONOR, AND MS. WALSH IDENTIFIED BOTH YESTERDAY.

08:54AM 17 THE FIRST IS THE IDENTIFICATION ISSUE.

08:54AM 18 THE PROBLEM THAT MR. SCHENK IDENTIFIED IS THAT DR. CULLEN

08:54AM 19 NEVER IDENTIFIED -- NEVER RECEIVED WHAT MR. SCHENK CALLS THE

08:54AM 20 ENHANCED VERSION.

08:54AM 21 THE FIRST PROBLEM, THE BIGGER PROBLEMS ARE THE ONES THAT

08:54AM 22 WE IDENTIFIED IN OUR MOTION. WE DON'T BELIEVE THAT, AS OF

08:54AM 23 MARCH 2010 AND APRIL 2010, WHICH IS WHEN THE ENHANCED VERSION

08:54AM 24 WAS SENT TO WALGREENS, THAT THERE WAS -- THAT THE GOVERNMENT

08:54AM 25 HAS MET ITS BURDEN, ITS INITIAL THRESHOLD BURDEN OF PROVING THE

08:54AM 1 EXISTENCE OF A CONSPIRACY BY A PREPONDERANCE OF THE EVIDENCE.

08:54AM 2 THE COURT: IS THAT NECESSARY TO HAVE THAT

08:54AM 3 INTRODUCED?

08:54AM 4 MR. BRECHER: IT IS, YOUR HONOR, TO THE EXTENT THAT

08:54AM 5 THE COURT INTENDS -- OR THE GOVERNMENT INTENDS TO PRESENT TO

08:54AM 6 THE JURY AND THE COURT ALLOWS THE GOVERNMENT TO PRESENT TO THE

08:54AM 7 JURY THE IDEA THAT THERE IS ANYTHING NEFARIOUS GOING ON WITH

08:54AM 8 THESE LOGOS.

08:55AM 9 AS WE POINTED OUT, YOUR HONOR, THERE IS NO EVIDENCE THAT

08:55AM 10 MR. BALWANI HAD ANY KNOWLEDGE THAT THE LOGOS WERE ADDED

08:55AM 11 IMPROPERLY OR WITHOUT AUTHORIZATION, NONE WHATSOEVER.

08:55AM 12 AND THERE'S ONLY ONE PIECE OF EVIDENCE THAT MR. BALWANI

08:55AM 13 WAS COPIED IN, I BELIEVE IT'S MARCH 19TH, 2010, WITH WHAT WE'LL

08:55AM 14 CALL THE ORIGINAL VERSION OF THE MEMO; THAT MR. BALWANI EVEN

08:55AM 15 SAW THE UNENHANCED VERSION.

08:55AM 16 THE COURT: SO THAT WOULD BE ADMISSIBLE IF WERE

08:55AM 17 INTRODUCED?

08:55AM 18 IF AN I.T. TESTIFIED THAT WE SEARCHED THE COMPUTER OR

08:55AM 19 THERE'S A FOUNDATION THAT THIS IS ON MR. BALWANI'S COMPUTER,

08:55AM 20 THAT'S ADMISSIBLE.

08:55AM 21 MR. BRECHER: IT COULD BE ADMISSIBLE, YOUR HONOR,

08:55AM 22 BUT NOT FOR THE REASONS THAT -- BUT THERE ARE SOME PROBLEMS FOR

08:55AM 23 THE REASONS THAT WE IDENTIFIED IN OUR MOTION; NAMELY, TO THE

08:55AM 24 EXTENT THAT THE GOVERNMENT INTENDS TO ARGUE THAT THERE WAS

08:55AM 25 SOMETHING WRONG OR UNAUTHORIZED ABOUT THE ADDING OF THE LOGOS

08:55AM 1 OR THE CHANGING OF THE CONCLUSION, THERE IS NO EVIDENCE THAT

08:56AM 2 MR. BALWANI KNEW THAT, NONE, ABOUT ANY UNAUTHORIZED ADDITIONS.

08:56AM 3 THERE SIMPLY ISN'T.

08:56AM 4 AND EVEN PUTTING THAT ASIDE, EVEN IF THE GOVERNMENT WERE

08:56AM 5 PROCEEDING UNDER A THEORY OF COCONSPIRATOR LIABILITY OR

08:56AM 6 COSCHEMER LIABILITY, THERE IS NOT THAT THRESHOLD SHOWING THAT A

08:56AM 7 CONSPIRACY TO DEFRAUD EXISTED IN MARCH OR APRIL OF 2010.

08:56AM 8 I DON'T KNOW HOW THE GOVERNMENT GETS THERE. THE TEXT

08:56AM 9 MESSAGES THAT THEY POINT TO START IN 2012.

08:56AM 10 THE INVESTOR FUND RAISING THAT THEY CHARGE AND DISCUSS IS

08:56AM 11 IN 2013, THREE YEARS LATER.

08:56AM 12 AND EVEN WHEN IT COMES TO THE RETAIL PARTNERS, YOU'RE

08:56AM 13 DEALING WITH CONTRACTS THAT WERE NOT FINALIZED UNTIL JULY OF

08:56AM 14 2010.

08:56AM 15 MR. BALWANI DID NOT BECOME A SENIOR EXECUTIVE AT THE

08:56AM 16 COMPANY UNTIL JULY 2010. NOT A DIME WAS RECEIVED FROM ANY

08:56AM 17 RETAILER UNTIL 2010.

08:56AM 18 THE COURT: SO THE FACT THAT IT'S FOUND ON HIS

08:56AM 19 COMPUTER, DOES THAT GO TO SOME OTHER ISSUE? DOES THAT GO TO

08:57AM 20 KNOWLEDGE?

08:57AM 21 MR. BRECHER: YOUR HONOR, THE GOVERNMENT CONTENDS

08:57AM 22 THAT THE FACT THAT MR. BALWANI WAS COPIED ON MARCH 19TH ON AN

08:57AM 23 EMAIL THAT ATTACHES THE UNALTERED VERSION, AND THEN ALSO COPIED

08:57AM 24 ON APRIL 10TH, ABOUT A MONTH LATER, ON AN EMAIL WITH THE

08:57AM 25 ALTERED VERSION SHOWS THAT HE HAD PERSONAL KNOWLEDGE OF

08:57AM 1 UNAUTHORIZED CHANGES.

08:57AM 2 THERE ARE A LOT OF PROBLEMS WITH THAT.

08:57AM 3 FIRST OF ALL, THERE IS NO EVIDENCE -- AND AGAIN, I CANNOT

08:57AM 4 STRESS THIS ENOUGH -- THAT MR. BALWANI HAD ANY KNOWLEDGE OF

08:57AM 5 ANYTHING BEING DONE WITHOUT THE PERMISSION OF THE

08:57AM 6 PHARMACEUTICAL COMPANY; AND SECOND, THERE IS NO REASON, AND

08:57AM 7 THIS JUST GOES TO OUR COMMON SENSE UNDERSTANDING OF HOW WE

08:57AM 8 INTERACT WITH EMAILS, THERE'S NO REASON WHY ANY NORMAL HUMAN

08:57AM 9 WOULD HAVE NOTICED THE PRESENCE OR ABSENCE OF A LOGO AND PUT

08:57AM 10 TOGETHER, OH, SOMETHING UNTOWARD MUST HAVE HAPPENED HERE.

08:57AM 11 THE COURT: WELL, ISN'T THAT WHAT YOU'LL ARGUE IN

08:57AM 12 CLOSING ARGUMENT? IF THERE'S NO EVIDENCE PUT ON, THEN THAT'S

08:57AM 13 WHAT YOUR ARGUMENT WILL BE, THE GOVERNMENT ASKED YOU TO TAKE A

08:58AM 14 GIANT LEAP ACROSS THE GRAND CANYON AND YOU'RE NOT ABLE TO DO

08:58AM 15 THAT.

08:58AM 16 MR. BRECHER: CERTAINLY, YOUR HONOR, THAT REMAINS AN

08:58AM 17 OPTION.

08:58AM 18 BUT THERE ARE OTHER THINGS TO CONSIDER. ONE, FACTUALLY,

08:58AM 19 YOU HAVE TO UNDERSTAND THE CONTEXT BEHIND MR. BALWANI'S

08:58AM 20 UNDERSTANDING -- AND THE GOVERNMENT, BY THE WAY, HAS DONE

08:58AM 21 NOTHING TO DISPUTE THIS.

08:58AM 22 THESE RELATIONSHIPS WERE CONSUMMATED, THEY WERE DEVELOPED,

08:58AM 23 AND THEY LARGELY ENDED BEFORE MR. BALWANI EVEN JOINED THE

08:58AM 24 COMPANY, LONG BEFORE ANY OF THESE MEMOS WERE EXCHANGED WITH

08:58AM 25 THESE ENHANCED VERSIONS.

08:58AM 1 AND BEFORE HE JOINED THE COMPANY, HE RECEIVED -- AND  
08:58AM 2 AGAIN, THIS IS UNDISPUTED -- THE SAME REPRESENTATIONS THAT WERE  
08:58AM 3 LATER GIVEN TO INVESTORS THAT THERANOS'S TECHNOLOGY HAD BEEN --  
08:58AM 4 I BELIEVE IT WAS ROBUSTLY VALIDATED IS WHAT MR. BALWANI WAS  
08:58AM 5 TOLD, AND COMPREHENSIVELY VALIDATED IS WHAT INVESTORS WERE  
08:58AM 6 TOLD.

08:58AM 7 I DON'T SEE ANY DAYLIGHT THERE, YOUR HONOR.

08:58AM 8 THE COURT: BUT THAT --

08:58AM 9 MR. BRECHER: OH, I APOLOGIZE, YOUR HONOR.

08:58AM 10 THE COURT: BUT, AGAIN, THAT'S EXPLANATORY. WHAT  
08:59AM 11 DOES THAT HAVE TO DO WITH THE ADMISSIBILITY OF IT?

08:59AM 12 MR. BRECHER: WELL, YOUR HONOR, IT HAS TO DO WITH  
08:59AM 13 THE ADMISSIBILITY BECAUSE OF THE BOUJALY DECISION, I DON'T HAVE  
08:59AM 14 IT IN FRONT OF ME, MS. RODRIGUEZ, BUT I BELIEVE IT'S  
08:59AM 15 B-O-U-R-J-A-L-Y. I'M SORRY ABOUT THAT.

08:59AM 16 IT REMAINS, UNDER RULE 104, YOUR HONOR, THE GOVERNMENT'S  
08:59AM 17 BURDEN TO SHOW BY A PREPONDERANCE OF THE EVIDENCE THAT A  
08:59AM 18 CONSPIRACY OR A SCHEME TO DEFRAUD EXISTED AT THE TIME OF THE  
08:59AM 19 ALLEGED MISCONDUCT.

08:59AM 20 THE COURT: SURE. NO, I APPRECIATE THAT. I  
08:59AM 21 APPRECIATE THAT.

08:59AM 22 I'M JUST -- IF WE PUT THAT ASIDE, AND WE CAN'T FROM YOUR  
08:59AM 23 PERSPECTIVE, IF THIS IS BEING INTRODUCED FOR, AND IF THE  
08:59AM 24 GOVERNMENT INTENDS TO ARGUE, THEN I THINK YOUR ARGUMENT IS THAT  
08:59AM 25 THERE'S NO THRESHOLD HERE.

08:59AM 1 BUT JUST IN AND OF ITSELF, ISN'T IT ADMISSIBLE THAT ON HIS  
08:59AM 2 COMPUTER THIS WAS FOUND AND AT A LATER TIME HE SENT THIS? ARE  
09:00AM 3 THOSE TWO, THOSE TWO THINGS ADMISSIBLE?  
09:00AM 4 MR. BRECHER: I DON'T BELIEVE SO, YOUR HONOR.  
09:00AM 5 FIRST OF ALL, THEY'RE CERTAINLY NOT ADMISSIBLE THROUGH  
09:00AM 6 DR. CULLEN. SHE CAN'T AUTHENTICATE ANY OF THIS.  
09:00AM 7 THE COURT: SURE.  
09:00AM 8 MR. BRECHER: SECOND -- AND I DON'T WANT TO FIGHT  
09:00AM 9 THE COURT'S HYPOTHETICAL, THAT'S NOT MY --  
09:00AM 10 THE COURT: NO, NO.  
09:00AM 11 MR. BRECHER: BUT I JUST WANT TO PUSH BACK FOR A  
09:00AM 12 MOMENT --  
09:00AM 13 THE COURT: YOU SHOULD, YEAH.  
09:00AM 14 MR. BRECHER: -- AND SAY, WELL, IF THE ANSWER IS SO  
09:00AM 15 ATTENUATED THAT YOU CAN TELL THE JURY THAT IN CLOSING, THAT  
09:00AM 16 WOULD READ OUT OF EXISTENCE ALMOST ALL OF THE RULES OF EVIDENCE  
09:00AM 17 THAT I CAN THINK OF.  
09:00AM 18 THE COURT: NO, I UNDERSTAND.  
09:00AM 19 MR. BRECHER: THE POINT OF THE INQUIRY, AND I DON'T  
09:00AM 20 THINK THIS IS DISPUTED EITHER, IS FOR THE COURT TO PLAY THAT  
09:00AM 21 GATEKEEPING ROLE AND TO ENSURE THAT THERE BE SOME PREDICATE,  
09:00AM 22 LEGAL AND FACTUAL, BEFORE POTENTIALLY PREJUDICIAL EVIDENCE IS  
09:00AM 23 TURNED OVER TO THE JURY.  
09:00AM 24 THE COURT: OKAY.  
09:00AM 25 MR. BRECHER: AND PART OF THE REASON FOR THAT,

09:00AM 1 YOUR HONOR, IN THIS CASE IS BECAUSE THE GOVERNMENT'S THEORY IS  
09:00AM 2 ONE OF COSCHEMER OR COCONSPIRATOR LIABILITY, IT'S THE EXCEPTION  
09:01AM 3 AND NOT THE RULE THAT WE'RE CRIMINALLY RESPONSIBLE FOR THE ACTS  
09:01AM 4 OF OTHERS.

09:01AM 5 THE COURT: OKAY.

09:01AM 6 MR. BRECHER: WE HAVE TO HAVE THOSE GUARDRAILS  
09:01AM 7 ENFORCED.

09:01AM 8 THE COURT: MR. SCHENK.

09:01AM 9 MR. SCHENK: YOUR HONOR, FIRST, THE DEFENSE SAID  
09:01AM 10 THERE ARE TWO HURDLES.

09:01AM 11 THE FIRST IS AUTHENTICATION. THAT IS NOT A HURDLE IN THIS  
09:01AM 12 CASE. THERE'S A STIPULATION BETWEEN THE PARTIES THAT EMAILS,  
09:01AM 13 SUCH AS 291, ARE AUTOMATIC. 291 IS THE DOCUMENT THAT CULLEN  
09:01AM 14 DID NOT RECEIVE WAS SENT FROM HOLMES TO WALGREENS, CC'ING  
09:01AM 15 BALWANI.

09:01AM 16 THAT DOCUMENT WE DO INTEND TO INTRODUCE THROUGH DR. CULLEN  
09:01AM 17 TODAY. IT IS NOT COMING IN FOR THE TRUTH. IT'S FOR  
09:01AM 18 MR. BALWANI'S STATE OF MIND. THAT'S WHAT WE'RE TALKING ABOUT  
09:01AM 19 RIGHT NOW, WHAT DID MR. BALWANI KNOW AND WHEN DID HE KNOW IT?  
09:01AM 20 AND HE RECEIVED AN EMAIL THAT INCLUDED VERSIONS OF THREE  
09:01AM 21 PHARMACEUTICAL REPORTS, ALL WITH THE PHARMACEUTICAL COMPANY'S  
09:01AM 22 LOGO ON THEM.

09:01AM 23 IT'S RELEVANT TO HIS KNOWLEDGE AND INTENT VIS-À-VIS THE  
09:01AM 24 RELATIONSHIP WITH WALGREENS, AND 291 SHOULD COME IN THROUGH  
09:02AM 25 DR. CULLEN. THERE'S NO AUTHENTICATION HURDLE.

09:02AM 1 LET'S NOW TURN TO THE QUESTION OF WHETHER THERE'S PROOF

09:02AM 2 SUFFICIENT TO PROVE A CONSPIRACY AT THE TIME.

09:02AM 3 THAT'S A HURDLE THAT THE GOVERNMENT COULD NOT, IN THEORY,

09:02AM 4 OVERCOME IN THE HOLMES CASE, AND YES, THAT DOCUMENT STILL CAME

09:02AM 5 IN, AND THE REASON THAT IT CAME IN IS BECAUSE IT'S A SUMMARY OF

09:02AM 6 PURE FACTS.

09:02AM 7 THE FACT IS THAT THE VERSION THAT WAS SENT TO

09:02AM 8 SCHERING-PLough DID NOT HAVE A LOGO.

09:02AM 9 THE FACT IS THAT MS. HOLMES CC'D MR. BALWANI ON A VERSION

09:02AM 10 THAT WENT TO WALGREENS THAT DID HAVE A LOGO.

09:02AM 11 IT'S COMPLETELY APPROPRIATE TO ASK A WITNESS ON THE STAND,

09:02AM 12 WHO HAS PERSONAL KNOWLEDGE OF THE ATTACHMENT, THAT SHE DID NOT

09:02AM 13 AUTHORIZE AFFIXING THE LOGO ONTO THE DOCUMENT.

09:02AM 14 AND THOSE ARE, THOSE ARE JUST MERELY FACTS.

09:02AM 15 THE QUESTION THAT THE DEFENSE IS NOW RAISING IS, WHAT IS A

09:02AM 16 PROPER ARGUMENT TO MAKE BASED UPON THOSE FACTS?

09:02AM 17 AND THE TRUTH IS MR. BALWANI SAW BOTH VERSIONS.

09:02AM 18 MR. BALWANI SAW A VERSION WITHOUT THE LOGO AND A VERSION WITH

09:03AM 19 THE LOGO.

09:03AM 20 AND WHAT THE DEFENSE SAYS IS THAT, YOUR HONOR, COMMON

09:03AM 21 SENSE TELLS YOU THAT AN INDIVIDUAL DOESN'T COMB THROUGH THEIR

09:03AM 22 EMAIL IN A SUFFICIENT WAY TO DETERMINE THAT THOSE TWO WERE

09:03AM 23 DIFFERENT.

09:03AM 24 THAT'S AN ARGUMENT REGARDING WEIGHT. THAT'S NOT AN

09:03AM 25 ARGUMENT REGARDING ADMISSIBILITY. THAT'S THE KIND OF ARGUMENT

09:03AM 1 THAT A DEFENSE ATTORNEY MAKES IN CLOSING ARGUMENT. IT'S NOT

09:03AM 2 THE KIND OF ARGUMENT THAT PRECLUDES THE ADMISSION OF THE

09:03AM 3 DOCUMENT.

09:03AM 4 AND I'LL NOTE, IN OPENING THE DEFENSE ACTUALLY OPENED THE

09:03AM 5 DOOR TO MUCH OF THIS. THE DEFENSE SAID THAT MR. BALWANI DID

09:03AM 6 NOT GUARANTEE THE LOAN AND DID NOT JOIN THERANOS BECAUSE

09:03AM 7 ELIZABETH HOLMES WAS HIS GIRLFRIEND, BUT RATHER BECAUSE HE DID

09:03AM 8 HIS DUE DILIGENCE.

09:03AM 9 MR. BALWANI JOINED IN ABOUT SEPTEMBER OF 2009. THAT DUE

09:03AM 10 DILIGENCE OCCURRED BEFORE THEN.

09:03AM 11 SO THEY'VE OPENED THE DOOR TO EVEN A PRE-SEPTEMBER 2009

09:03AM 12 INTERACTION BETWEEN THERANOS AND SOMEONE LIKE SCHERING-PLOUGH

09:03AM 13 BEING RELEVANT.

09:03AM 14 SO THE EXCHANGES BETWEEN DR. CULLEN AND ELIZABETH HOLMES

09:04AM 15 IN THE MONTHS IN 2009 PRECEDING SEPTEMBER ARE STILL RELEVANT

09:04AM 16 BECAUSE THE DEFENSE TOLD THIS JURY THAT MR. BALWANI BECAME

09:04AM 17 AWARE OF THE BUSINESS OF THERANOS BEFORE HE JOINED THERANOS.

09:04AM 18 SO IT IS NO LONGER THE CASE THAT SEPTEMBER 2009 IS OUR

09:04AM 19 MAGIC LINE IN THE SAND OF WHEN RELEVANT EVIDENCE CAN BE

09:04AM 20 ADMITTED IN THIS CASE BECAUSE THAT'S WHEN MR. BALWANI JOINED

09:04AM 21 THERANOS.

09:04AM 22 THAT IS NO LONGER THE CASE.

09:04AM 23 THEY'VE SCRATCHED THAT LINE OUT AND SAID THAT MR. BALWANI

09:04AM 24 PERFORMED DUE DILIGENCE ON FACTS THAT PREDATE HIS JOINING OF

09:04AM 25 THE COMPANY, SUCH AS IN THE MONTHS EARLIER IN THIS RELATIONSHIP

09:04AM 1 WITH, WITH SCHERING-PLough THAT OCCURRED IN THE BEGINNING OF

09:04AM 2 2009 THROUGH A MEETING IN MAY OF 2009 THROUGH AN EXCHANGE OF

09:04AM 3 EMAILS IN LATER 2009.

09:04AM 4 THAT IS ALL OF THE BUCKET OF INFORMATION AVAILABLE TO

09:04AM 5 MR. BALWANI WHEN HE PERFORMS HIS DUE DILIGENCE, AND AS A RESULT

09:04AM 6 IT'S COMPLETELY APPROPRIATE FOR THE GOVERNMENT TO BE ALLOWED TO

09:04AM 7 INTRODUCE THIS EVIDENCE AND ASK THE JURY TO REACH CONCLUSIONS

09:05AM 8 THAT ARE BASED UPON THAT EVIDENCE, SOME DIRECT CONCLUSIONS WHEN

09:05AM 9 HE SEES TWO VERSIONS OF IT, AND SOME CIRCUMSTANTIAL.

09:05AM 10 IT'S IN HIS EMAIL, AND THE DEFENSE IS FREE TO SAY PEOPLE

09:05AM 11 DON'T READ THEIR EMAIL CLOSELY IF THAT'S THE ARGUMENT THEY WANT

09:05AM 12 TO MAKE TO THE JURY, BUT THAT ARGUMENT SHOULD NOT PRECLUDE THE

09:05AM 13 ADMISSION OF THIS EVIDENCE.

09:05AM 14 THE COURT: I THINK WHAT I HEARD DEFENSE COUNSEL SAY

09:05AM 15 IS, WELL, YOU CAN'T LET IT IN BECAUSE 104, THERE'S NO

09:05AM 16 FOUNDATION TO SHOW A CONSPIRACY DURING THE TIME PERIOD OR, AS

09:05AM 17 MS. VOLKAR ARGUED, VICARIOUS LIABILITY.

09:05AM 18 AND I JUST, DO WE EVEN NEED TO GET THERE IS WHAT I'M

09:05AM 19 SAYING? WHY ISN'T THIS JUST FACTS?

09:05AM 20 MR. BRECHER: SO A COUPLE OF ISSUES, YOUR HONOR.

09:05AM 21 MR. SCHENK'S RESPONSE IS, I'M SORRY TO SAY, ENTIRELY

09:05AM 22 UNRESPONSIVE TO THE DEFENSE'S CONCERN.

09:05AM 23 I WANT TO START AT THE END WITH WHAT WE OPENED THE DOOR TO

09:05AM 24 IN OPENING. AND I WOULD INVITE YOUR HONOR, INDEED, I WOULD

09:05AM 25 URGE THE COURT TO GO BACK TO THE TRANSCRIPT OF OUR MARCH 11TH

09:05AM 1 CONVERSATION WITH YOU AND WITH MS. VOLKAR WHERE I WAS CRYSTAL

09:06AM 2 CLEAR THAT BOTH SIDES HAD AN INTEREST IN USING THESE

09:06AM 3 PHARMACEUTICAL RELATIONSHIPS, THE DEFENSE TO SHOW MR. BALWANI'S

09:06AM 4 INTENT BECAUSE OF THOSE REPRESENTATIONS THAT MR. SCHENK JUST

09:06AM 5 REFERENCED, AND THE GOVERNMENT IN SHOWING FALSITY.

09:06AM 6 WE NEVER -- I'VE NEVER SUGGESTED THAT EVIDENCE BEFORE

09:06AM 7 SEPTEMBER 2009 IS IRRELEVANT. IT'S THE QUESTION OF THE PURPOSE

09:06AM 8 FOR WHICH IT CAN BE USED.

09:06AM 9 AND I NOTE, YOUR HONOR, THAT MR. SCHENK COMPLETELY SKIPS

09:06AM 10 OVER THE THRESHOLD SHOWING OF CONSPIRACY.

09:06AM 11 I BELIEVE THERE'S A COMMENT, "THAT MAY HAVE BEEN AN ISSUE

09:06AM 12 IN THE HOLMES TRIAL, BUT THIS CAME IN."

09:06AM 13 I'M STUNNED BY THAT ARGUMENT FOR TWO REASONS. ONE,

09:06AM 14 MR. SCHENK HAS PERSONALLY OBJECTED TO REFERENCES TO RULINGS IN

09:06AM 15 THE HOLMES TRIAL AND SOME SORT OF LAW OF THE CASE THEORY.

09:06AM 16 BUT THE SECOND PROBLEM IS THERE WAS NO SUCH RULING.

09:06AM 17 MS. HOLMES NEVER BOTHERED TO CHALLENGE THE ADMISSIBILITY OF

09:06AM 18 THIS EVIDENCE, PROBABLY BECAUSE -- AND I'M SPECULATING HERE --

09:06AM 19 SHE WAS INTIMATELY INVOLVED IN THE PHARMACEUTICAL RELATIONSHIPS

09:07AM 20 AND KNEW THAT SHE COULDN'T.

09:07AM 21 THAT IS NOT THE CASE FOR MR. BALWANI. WE DID CHALLENGE

09:07AM 22 IT. WE FILED A MOTION AND ARGUED IT AT LENGTH, AND YOUR HONOR

09:07AM 23 HAS APPARENTLY BEEN CONSIDERING IT AT SOME LENGTH.

09:07AM 24 SO WHAT HAPPENED AT THE HOLMES TRIAL IS COMPLETELY

09:07AM 25 IRRELEVANT.

09:07AM 1 THE COURT: I UNDERSTAND. THERE WERE NO OBJECTIONS

09:07AM 2 TO THAT AT THE HOLMES TRIAL.

09:07AM 3 MR. BRECHER: EXACTLY. SO THIS IS A BLANK SLATE.

09:07AM 4 AND THEN SECOND, YOUR HONOR, PUTTING ASIDE I DON'T THINK

09:07AM 5 WE CAN PUT THROUGH THE COCONSPIRATOR LIABILITY POINT BECAUSE

09:07AM 6 THE NATURAL INFERENCE THAT THE GOVERNMENT WANTS THE COURT --

09:07AM 7 WANTS THE JURY TO DRAW IS THAT THESE CHANGES WERE MADE WITHOUT

09:07AM 8 AUTHORIZATION.

09:07AM 9 THEY CAN'T DO THAT BECAUSE OF THE LACK OF A THRESHOLD

09:07AM 10 SHOWING, RIGHT? YOU'RE NOT RESPONSIBLE FOR THE ACTS OF OTHERS

09:07AM 11 ABSENT SOME EXCEPTION UNDER THE LAW, HERE COSCHEMER LIABILITY

09:07AM 12 OR COCONSPIRATOR LIABILITY.

09:07AM 13 AND WE HAVEN'T EVEN TALKED ABOUT THE 403 ARGUMENT THAT WE

09:07AM 14 MADE AND THAT WE ARGUED EXTENSIVELY ON MARCH 11TH, AND THAT IS

09:07AM 15 EVERYONE IN THIS ROOM KNOWS THAT MS. HOLMES ADMITTED TO THIS

09:07AM 16 CONDUCT AND THERE IS NO ADMISSIBLE WAY, WITHOUT SACRIFICING

09:08AM 17 MR. BALWANI'S CONFRONTATION RIGHTS, TO PUT THAT ADDITIONAL

09:08AM 18 PIECE OF CRUCIAL CONTEXT IN FRONT OF THE JURY.

09:08AM 19 SO WE KNOW TWO THINGS, YOUR HONOR. WE KNOW SOMEONE ELSE

09:08AM 20 DID THE ACT, AND WE KNOW THAT MR. BALWANI LACKED -- AND WE KNOW

09:08AM 21 THERE'S NO EVIDENCE, NO AFFIRMATIVE EVIDENCE THAT MR. BALWANI

09:08AM 22 HAD KNOWLEDGE OF THE IMPROPRIETY OF THE ACT.

09:08AM 23 AND THAT'S THE SORT OF SUBTLE NUANCE THAT IS BEING SKIPPED

09:08AM 24 OVER HERE IS EVEN IF THE COURT WERE TO BELIEVE -- AND I THINK,

09:08AM 25 FRANKLY, IT'S IMPLAUSIBLE -- THAT RECEIVING THIS ATTACHMENT ON

09:08AM	1	MARCH 19TH AND THEN RECEIVING A DIFFERENT VERSION ON
09:08AM	2	APRIL 10TH, AND THESE ARE LENGTHY ATTACHMENTS, YOUR HONOR, THAT
09:08AM	3	MR. BALWANI COULD HAVE PUT TWO AND TWO TOGETHER AND HAD
09:08AM	4	KNOWLEDGE OF THE ACT OF ALTERING THE REPORTS.
09:08AM	5	THERE'S NO EVIDENCE FROM WHICH ANYONE COULD INFER
09:08AM	6	KNOWLEDGE OF THE UNAUTHORIZED ALTERATION.
09:08AM	7	SO I JUST THINK IT'S A REAL PROBLEM.
09:08AM	8	THE COURT: BUT SHOULDN'T THAT FACT COME IN, THOUGH?
09:08AM	9	I MEAN, THEY'RE FACTS. HE RECEIVED BOTH OF THOSE THINGS AT THE
09:08AM	10	TIMES THAT YOU SAID, AND SHOULDN'T THE JURY HAVE THAT?
09:09AM	11	MR. BRECHER: I DON'T THINK SO, YOUR HONOR, BECAUSE
09:09AM	12	THAT LAYS THE GROUNDWORK FOR THE GOVERNMENT TO MAKE AN
09:09AM	13	IMPERMISSIBLE ARGUMENT.
09:09AM	14	IF WE WERE TALKING ABOUT 2013, 2014, I WON'T CONCEDE THE
09:09AM	15	POINT, BUT I WILL AT LEAST ACKNOWLEDGE THAT WE WOULD NOT BE IN
09:09AM	16	AS STRONG AS A POSITION.
09:09AM	17	BUT WE'RE NOT TALKING ABOUT EVENTS OF 2013 AND 2014. AND
09:09AM	18	DATES MATTER. THEY MATTER VITALLY.
09:09AM	19	WE'RE TALKING ABOUT MARCH AND APRIL OF 2010. THE
09:09AM	20	GOVERNMENT MUST MAKE THE REQUISITE SHOWING OF A CONSPIRACY OR
09:09AM	21	SCHEME TO DEFRAUD IN MARCH OR APRIL 2010, AND I DON'T THINK THE
09:09AM	22	FACTS BEAR THAT OUT.
09:09AM	23	THE COURT: OKAY.
09:09AM	24	MR. SCHENK.
09:09AM	25	MR. SCHENK: YOUR HONOR, THE DEFENSE IS ASKING THE

09:09AM 1 COURT TO BELIEVE MS. HOLMES'S TESTIMONY WHEN SHE TESTIFIED THAT

09:09AM 2 SHE MADE THE APPLICATION OF THE LOGOS.

09:09AM 3 MS. HOLMES DID NOT EXONERATE MR. BALWANI IN THAT

09:09AM 4 TESTIMONY. MS. HOLMES TOOK RESPONSIBILITY FOR IT, BUT SHE

09:09AM 5 DIDN'T SAY THAT MR. BALWANI KNEW NOTHING ABOUT IT OR

09:09AM 6 MR. BALWANI DIDN'T PLAY A ROLE IN IT.

09:09AM 7 SHE ALSO DIDN'T INculpate MR. BALWANI.

09:09AM 8 BUT IT'S RICH THAT THE DEFENSE WANTS TO ACCEPT CERTAIN

09:10AM 9 FACTS THAT MS. HOLMES TESTIFIED TO AND NOT OTHERS, AND THE

09:10AM 10 POINT OF THAT IS THAT THE GOVERNMENT IS NOT REQUIRED TO

09:10AM 11 ESTABLISH THE EXISTENCE OF A CONSPIRACY AS A PREREQUISITE TO

09:10AM 12 ADMITTING THESE FACTS. THEY ARE FACTS THAT DR. CULLEN HAS

09:10AM 13 PRIMARY KNOWLEDGE OF. SHE WAS A WITNESS TO THE EXCHANGE OF THE

09:10AM 14 FIRST VERSION, THE VERSION WITHOUT THE LOGOS, AND IT IS

09:10AM 15 THEREFORE APPROPRIATE TO ASK HER QUESTIONS ABOUT A SECOND

09:10AM 16 VERSION.

09:10AM 17 WELL, THE DEFENSE IS SAYING WHEN YOU MAKE ARGUMENTS ABOUT

09:10AM 18 THAT VIS-À-VIS MR. BALWANI, THERE ARE CERTAIN FACTS THAT ARE

09:10AM 19 ALSO RELEVANT, THAT IS, THE EXTENT TO WHICH MR. BALWANI HAD

09:10AM 20 KNOWLEDGE OF IT.

09:10AM 21 THAT IS ALL WEIGHT. THAT IS NOT ADMISSIBILITY.

09:10AM 22 MR. BRECHER: YOUR HONOR, IF I MAY JUST VERY

09:10AM 23 BRIEFLY?

09:10AM 24 FIRST, ANY RICHNESS IS ONE THAT WE SHARE WITH THE

09:10AM 25 GOVERNMENT. THE GOVERNMENT ALSO BELIEVES CERTAIN THINGS THAT

09:10AM 1 MS. HOLMES SAID, AND DOESN'T BELIEVE CERTAIN THINGS THAT SHE  
09:10AM 2 SAID, AND ONE OF THE THINGS THAT THEY DEFINITELY BELIEVED IS  
09:11AM 3 HER ADMISSION THAT SHE USED THESE LOGOS. THEY TRUMPETED THIS.  
09:11AM 4 BUT SECOND, YOUR HONOR, THE POINT ABOUT MS. HOLMES NOT  
09:11AM 5 EXONERATING MR. BALWANI GOES PRECISELY TO THE ISSUE THAT WE  
09:11AM 6 ARGUED ABOUT ON MARCH 11TH. IT REALLY IS DÉJÀ VU OVER AGAIN.  
09:11AM 7 WHEN I SAY WE CAN'T PUT THAT CONTEXT IN FRONT OF THE JURY  
09:11AM 8 WITHOUT SACRIFICING MR. BALWANI'S CONFRONTATION RIGHTS, THAT'S  
09:11AM 9 PRECISELY THE ISSUE THAT I'M HONING IN ON. NO ONE ASKED THE  
09:11AM 10 QUESTIONS. MS. HOLMES'S LAWYERS DIDN'T FEEL LIKE IT, AND THE  
09:11AM 11 GOVERNMENT DIDN'T HAVE AN INCENTIVE TO ASK, WELL, DID YOU  
09:11AM 12 NOTE -- DID YOU TELL, MR. BALWANI? DID HE KNOW ABOUT THIS?  
09:11AM 13 SHE'S NOT ON THE STAND. MR. BALWANI -- WE DON'T HAVE THE  
09:11AM 14 OPPORTUNITY TO CROSS-EXAMINE. WE KNOW THAT SHE MADE THIS  
09:11AM 15 ADMISSION. WE WOULD HAVE FOLLOWED UP ON WHETHER ON WHETHER SHE  
09:11AM 16 SHARED THIS PLAN WITH MR. BALWANI, AND WE LACKED THE  
09:11AM 17 OPPORTUNITY TO DO SO AND THE GOVERNMENT LACKED THE INCENTIVE TO  
09:11AM 18 DO SO.  
09:11AM 19 THAT'S ALL I HAVE, YOUR HONOR, UNLESS THE COURT HAS  
09:11AM 20 FURTHER QUESTIONS.  
09:11AM 21 THE COURT: MR. SCHENK?  
09:12AM 22 MR. SCHENK: SUBMIT IT.  
09:12AM 23 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.  
09:12AM 24 WE HAVE THE WITNESS HERE, IS IT DR. PANDORI?  
09:12AM 25 MR. SCHENK: YES, YOUR HONOR.

09:12AM 1 THE COURT: ALL RIGHT. WE'LL TAKE A BREAK AND BRING

09:12AM 2 DR. PANDORI ON AND COMPLETE HIS TESTIMONY THIS MORNING.

09:12AM 3 WHAT DO WE HAVE LEFT WITH HIM DO YOU THINK? ANY IDEA?

09:12AM 4 MR. CAZARES: 1 TO 1.5.

09:12AM 5 THE COURT: ALL RIGHT. THANK YOU.

09:12AM 6 MR. BRECHER: THANK YOU, YOUR HONOR.

09:12AM 7 (RECESS FROM 9:12 A.M. UNTIL 9:23 A.M.)

09:23AM 8 (JURY IN AT 9:23 A.M.)

09:23AM 9 THE COURT: THANK YOU. GOOD MORNING.

09:23AM 10 WE'RE BACK ON THE RECORD. ALL COUNSEL ARE PRESENT.

09:23AM 11 MR. BALWANI IS PRESENT.

09:23AM 12 OUR JURY AND ALTERNATES ARE PRESENT.

09:23AM 13 GOOD MORNING, LADIES AND GENTLEMEN.

09:23AM 14 BEFORE WE BEGIN, LET ME ASK YOU THAT QUESTION AGAIN.

09:23AM 15 DURING THE BREAK DID ANY OF YOU HAVE CAUSE TO DO ANY

09:23AM 16 INVESTIGATION, DISCUSS OR COME UPON ANY INFORMATION REGARDING

09:24AM 17 THIS CASE?

09:24AM 18 IF SO, IF YOU WOULD PLEASE RAISE YOUR HAND.

09:24AM 19 I SEE NO HANDS. THANK YOU.

09:24AM 20 WE ARE GOING TO RESUME, I BELIEVE, WITH DR. PANDORI,

09:24AM 21 MR. BOSTIC?

09:24AM 22 MR. BOSTIC: YES, YOUR HONOR, THE WITNESS IS

09:24AM 23 AVAILABLE.

09:24AM 24 THE COURT: GREAT. LET'S CALL HIM, RECALL HIM.

09:24AM 25 SIR, IF YOU WOULD JUST RETURN TO THE STAND, PLEASE.

09:24AM 1 AGAIN, MAKE YOURSELF COMFORTABLE.

09:24AM 2 **(GOVERNMENT'S WITNESS, MARK PANDORI, WAS RESWORN.)**

09:24AM 3 THE COURT: AND WHEN YOU ARE COMFORTABLE -- YES, YOU

09:24AM 4 CAN REMOVE YOUR MASK.

09:24AM 5 WHEN YOU ARE COMFORTABLE, WOULD YOU PLEASE JUST STATE YOUR

09:25AM 6 NAME AGAIN, PLEASE.

09:25AM 7 THE WITNESS: MARK PANDORI.

09:25AM 8 THE COURT: THANK YOU.

09:25AM 9 COUNSEL.

09:25AM 10 MR. CAZARES: AND, YOUR HONOR, MAY I HAND UP A

09:25AM 11 BINDER TO THE COURT?

09:25AM 12 THE COURT: YES.

09:25AM 13 MR. CAZARES: THE DEFENSE ALREADY HAS A COPY,

09:25AM 14 YOUR HONOR.

09:25AM 15 THE COURT: GREAT.

09:25AM 16 MR. CAZARES: (HANDING.)

09:25AM 17 AND MAY I REMOVE MY MASK, YOUR HONOR?

09:25AM 18 THE COURT: YES.

09:25AM 19 **CROSS-EXAMINATION (RESUMED)**

09:25AM 20 BY MR. CAZARES:

09:25AM 21 Q. GOOD MORNING, DR. PANDORI.

09:25AM 22 A. GOOD MORNING.

09:25AM 23 Q. I WANT TO PICK UP WHERE WE LEFT OFF ON FRIDAY. AND WITHIN

09:25AM 24 THE BENCH THERE YOU HAVE SOME BINDERS, AND I BELIEVE IN YOUR

09:25AM 25 VOLUME 2 YOU SHOULD HAVE AN EXHIBIT MARKED NUMBER 20279.

09:25AM 1 20279.

09:25AM 2 A. YES.

09:25AM 3 Q. DO YOU HAVE 20279 IN FRONT OF YOU?

09:25AM 4 A. YES.

09:25AM 5 Q. OKAY. AND DO YOU RECALL THAT WE WERE DISCUSSING THIS

09:25AM 6 EXHIBIT? IT'S AN EMAIL DATED MAY 30, 2014.

09:26AM 7 DO YOU SEE THAT?

09:26AM 8 A. YES.

09:26AM 9 Q. AND THE COVER SHEET APPEARS TO BE ADDRESSED TO

09:26AM 10 DR. ADAM ROSENDORFF; CORRECT?

09:26AM 11 A. YES.

09:26AM 12 Q. AND ITS SUBJECT LINE IS TRANSITION REPORT.

09:26AM 13 DO YOU SEE THAT AS WELL?

09:26AM 14 A. YES.

09:26AM 15 Q. AND I ASKED YOU ON FRIDAY TO TAKE A LOOK AT THE

09:26AM 16 ATTACHMENT.

09:26AM 17 CAN YOU DO THAT AGAIN?

09:26AM 18 DO YOU SEE THERE IS A MULTI-PAGE MEMO ATTACHED TO THE

09:26AM 19 EMAIL?

09:26AM 20 DO YOU SEE THAT?

09:26AM 21 A. YES.

09:26AM 22 Q. AND AT THE TOP OF THE MEMO IT HAS A TYPE STAMPED 52930?

09:26AM 23 A. IT HAS THE NUMBERS 5, 29, AND 30 ON THERE.

09:26AM 24 Q. AND THE INITIALS M.W. PANDORI.

09:26AM 25 DO YOU SEE THAT?

09:26AM 1 A. YES.

09:26AM 2 Q. AND THOSE ARE YOUR INITIALS?

09:26AM 3 A. THOSE ARE MY INITIALS, AND MY LAST NAME.

09:26AM 4 Q. OKAY. AND WHEN I ASKED YOU ABOUT THE EMAIL AND THE MEMO,

09:26AM 5 THE TRANSITION REPORT REFLECTED IN 20279 ON FRIDAY, YOU

09:26AM 6 TESTIFIED THAT YOU HAD NEVER SEEN THE ATTACHED REPORT BEFORE;

09:27AM 7 CORRECT?

09:27AM 8 A. NO. I TESTIFIED THAT IT WAS UNFAMILIAR TO ME.

09:27AM 9 Q. BUT YOU FIRST SAID THAT YOU HAD NEVER SEEN THE ATTACHED

09:27AM 10 REPORT BEFORE; CORRECT?

09:27AM 11 A. I DON'T RECALL MY EXACT WORDS, BUT I RECALL NOT

09:27AM 12 RECOGNIZING THE DOCUMENT.

09:27AM 13 Q. THERE SHOULD BE A BINDER THERE ON YOUR DESK WITH SOME

09:27AM 14 PRIOR STATEMENTS. I'M LOOKING FOR EXHIBIT 28456, 28456.

09:27AM 15 DO YOU HAVE THAT?

09:27AM 16 A. YES.

09:27AM 17 Q. AT 28456, IT'S A TRANSCRIPT FROM FRIDAY.

09:27AM 18 DO YOU SEE THAT?

09:27AM 19 A. YES.

09:27AM 20 Q. APRIL 1, '22?

09:27AM 21 A. YES.

09:27AM 22 Q. AND IF YOU COULD TURN TO PAGE 1865. ARE YOU AT 1865?

09:27AM 23 A. NO.

09:27AM 24 Q. OKAY. SO LET ME KNOW WHEN YOU'RE THERE.

09:28AM 25 A. I AM.

09:28AM 1 Q. AND LOOK AT LINES 1 TO 3. READ THAT TO YOURSELF.

09:28AM 2 A. YES, I SEE THAT.

09:28AM 3 Q. AND YOU TESTIFIED ON FRIDAY THAT YOU NEVER SAW THE REPORT

09:28AM 4 BEFORE; CORRECT?

09:28AM 5 A. THAT'S WHAT IT SAYS.

09:28AM 6 Q. OKAY. WHEN I SHOWED YOU EXHIBIT 20279 ON FRIDAY, YOU ALSO

09:28AM 7 SAID THAT YOU DID NOT SEND THE EMAIL AND ATTACHED REPORT TO

09:28AM 8 DR. ROSENDORFF; CORRECT?

09:28AM 9 A. WELL, NO. I SAID THE EMAIL DOES NOT HAVE A FROM LINE, SO

09:28AM 10 I CAN'T TELL WHO SENT THAT EMAIL.

09:28AM 11 Q. WITHIN THAT SAME EXHIBIT, 28456, THE TRANSCRIPT FROM

09:28AM 12 FRIDAY, PAGE 1863.

09:28AM 13 A. YES, I'M THERE.

09:28AM 14 Q. LINE 16 TO 17, READ THAT TO YOURSELF?

09:29AM 15 A. YES.

09:29AM 16 Q. YOU TESTIFIED ON FRIDAY THAT YOU DID NOT SEND THE EMAIL

09:29AM 17 AND REPORT TO DR. ROSENDORFF; CORRECT?

09:29AM 18 A. THAT'S WHAT IT SAYS HERE.

09:29AM 19 Q. OKAY. AND THAT'S THE TRANSCRIPT FROM FRIDAY?

09:29AM 20 A. I'D HAVE TO GO TO THE FRONT OF THE DOCUMENT TO CONFIRM

09:29AM 21 THAT.

09:29AM 22 Q. BUT THE DOCUMENT THAT YOU'RE LOOKING AT, EXHIBIT 28456,

09:29AM 23 SAYS THAT YOU TOLD THIS JURY THAT YOU DID NOT SEND THIS EMAIL

09:29AM 24 AND REPORT TO DR. ROSENDORFF; CORRECT?

09:29AM 25 MR. BOSTIC: OBJECTION.

09:29AM 1 THE COURT: SUSTAINED.

09:29AM 2 BY MR. CAZARES:

09:29AM 3 Q. WITH RESPECT TO EXHIBIT 20279, DR. PANDORI, UPON ALSO

09:29AM 4 SEEING THAT, YOU DID NOT RECALL AUTHORIZING THE REPORT; CORRECT?

09:29AM 5 A. I DO NOT RECALL AUTHORIZING IT.

09:29AM 6 MR. CAZARES: YOUR HONOR, PURSUANT TO THE FOUNDATION

09:29AM 7 WE LAID ON FRIDAY, MOVE TO ADMIT EXHIBIT 20279 AND THE

09:29AM 8 ATTACHMENT.

09:29AM 9 MR. BOSTIC: NO OBJECTION.

09:29AM 10 THE COURT: IT'S ADMITTED.

09:29AM 11 (DEFENDANT'S EXHIBIT 20279 WAS RECEIVED IN EVIDENCE.)

09:29AM 12 MR. CAZARES: MAY WE PUT THE FIRST PAGE UP ON THE

09:30AM 13 SCREEN?

09:30AM 14 THE COURT: IT MAY BE PUBLISHED.

09:30AM 15 BY MR. CAZARES:

09:30AM 16 Q. AND YOU CAN LOOK AT THE HARD COPY DOCUMENT OR THE SCREEN,

09:30AM 17 DR. PANDORI, WHEN THAT COMES UP.

09:30AM 18 DO YOU SEE IT UP ON THE SCREEN, DR. PANDORI,

09:30AM 19 EXHIBIT 20279?

09:30AM 20 A. YES.

09:30AM 21 Q. OKAY. AND AT THE TOP OF THE MESSAGE, IT APPEARS TO BE A

09:30AM 22 TRUNCATED EMAIL, IT SAYS TO ADAM\_ROSENDORFF@THERANOS.COM.

09:30AM 23 DO YOU SEE THAT?

09:30AM 24 A. YES, I SEE WHAT YOU'VE HIGHLIGHTED.

09:30AM 25 Q. OKAY. AND THE SUBJECT IS TRANSITION REPORT?

09:30AM 1 A. YES.

09:30AM 2 Q. 5/30/2014, THAT'S MAY 30TH, 2014.

09:30AM 3 DO YOU SEE THAT?

09:30AM 4 A. I SEE THAT.

09:30AM 5 Q. AND THERE'S A REFERENCE DOCUMENT ATTACHED, IT SAYS

09:30AM 6 TRANSITION MWP 05 2014.DOCX.

09:31AM 7 DO YOU SEE THAT?

09:31AM 8 A. YES.

09:31AM 9 Q. AND THE EMAIL SAYS "ATTACHED.

09:31AM 10 "A TRANSITION REPORT.

09:31AM 11 "HOPE THIS HELPS.

09:31AM 12 MARK."

09:31AM 13 DO YOU SEE THAT?

09:31AM 14 A. I SEE WHAT YOU'VE HIGHLIGHTED, YES.

09:31AM 15 Q. THOSE ARE YOUR WORDS; CORRECT?

09:31AM 16 A. THERE'S NO FROM LINE ON THE EMAIL. I DON'T KNOW IF I --

09:31AM 17 Q. I'M NOT ASKING YOU THAT. THOSE ARE YOUR WORDS --

09:31AM 18 THE COURT: LET HIM FINISH HIS ANSWER, PLEASE.

09:31AM 19 GO AHEAD.

09:31AM 20 THE WITNESS: NORMALLY IF I'M ASKED THAT QUESTION

09:31AM 21 ABOUT AN EMAIL, I WOULD WANT TO SEE THE FROM LINE.

09:31AM 22 BY MR. CAZARES:

09:31AM 23 Q. WE CAN GET THERE. BUT I'M ASKING YOU, ARE THE TYPEWRITTEN

09:31AM 24 WORDS IN EXHIBIT 20279 UP ON THE SCREEN YOUR TYPEWRITTEN WORDS

09:31AM 25 TO DR. ROSENDORFF?

09:31AM 1 A. I DON'T KNOW.

09:31AM 2 Q. IF YOU CAN TURN TO THE NEXT PAGE, WE CAN PUT IT UP THE

09:31AM 3 SCREEN, THE ATTACHMENT REFERENCED IN THE EMAIL, AND YOU SEE AT

09:31AM 4 THE TOP THAT WE MENTIONED BEFORE, THERE'S THE NUMBER 5/29/30.

09:31AM 5 DO YOU SEE THAT?

09:31AM 6 A. YES.

09:31AM 7 Q. AND ON 5-29 OF 2014, MAY 29TH OF 2014, YOU WERE STILL

09:32AM 8 WORKING AT THERANOS; CORRECT?

09:32AM 9 A. I DON'T KNOW.

09:32AM 10 Q. IT'S A YES OR NO.

09:32AM 11 A. I DON'T KNOW WHAT DATE. DO YOU HAVE ANY DOCUMENTS THAT I

09:32AM 12 CAN REFRESH MY MEMORY ON WHAT DAY I LEFT?

09:32AM 13 Q. SO IT'S YOUR TESTIMONY THAT YOU DON'T RECALL WHEN YOU LEFT

09:32AM 14 THERANOS PRECISELY?

09:32AM 15 A. I DON'T REMEMBER THE EXACT DATE. I TRIED TO DOUBLE-CHECK

09:32AM 16 MY MEMORY IN THAT REGARD WITH SOME DOCUMENTATION. IT LOOKS

09:32AM 17 LIKE --

09:32AM 18 Q. DR. PANDORI, THERE'S NO FURTHER QUESTION PENDING.

09:32AM 19 MR. BOSTIC: I ASK THAT THE WITNESS BE ALLOWED TO

09:32AM 20 COMPLETE HIS ANSWER.

09:32AM 21 ALSO, OBJECTION. ARGUMENTATIVE.

09:32AM 22 THE COURT: LET ME LET YOU WAIT FOR HIS NEXT

09:32AM 23 QUESTION AND THEN YOU CAN ANSWER.

09:32AM 24 BY MR. CAZARES:

09:32AM 25 Q. DR. PANDORI, THE ATTACHMENT TO EXHIBIT 20279, CONTINUING

09:32AM 1 ON THAT FIRST PAGE, THERE'S A HEADER AND YOU WILL SEE IT SAYS  
09:32AM 2 TRANSITION INDEX.  
09:32AM 3 DO YOU SEE THAT?  
09:32AM 4 A. YES.  
09:32AM 5 Q. AND THEN THERE ARE FOUR CATEGORIES: SUBJECT A, HIV/HCV  
09:32AM 6 SMALLER VOLUME PROJECT.  
09:32AM 7 DO YOU SEE THAT?  
09:32AM 8 A. YES.  
09:32AM 9 Q. AND HIV AND HCV ARE INFECTIOUS DISEASE MATTERS THAT YOU  
09:33AM 10 WORKED ON AT THERANOS; CORRECT?  
09:33AM 11 A. CORRECT. HCV I RECALL. HIV LESS SO.  
09:33AM 12 Q. AND THEN SUBJECT MATTER B, EMC/BUGS.  
09:33AM 13 BUGS RELATES TO THE INFECTIOUS DISEASE LAB AT THERANOS;  
09:33AM 14 CORRECT?  
09:33AM 15 A. THAT WAS MY UNDERSTANDING.  
09:33AM 16 Q. AND YOU DID SOME WORK IN RELATION TO THE INFECTIOUS  
09:33AM 17 DISEASE LAB AT THERANOS; CORRECT?  
09:33AM 18 A. YES.  
09:33AM 19 Q. AND SUBJECT MATTER C SAYS, DAILY CLIA ADMIN ISSUES.  
09:33AM 20 DO YOU SEE THAT?  
09:33AM 21 A. YES.  
09:33AM 22 Q. AND YOU DID SOME ADMINISTRATION ISSUES, MANAGERIAL MATTERS  
09:33AM 23 THAT YOU HANDLED WITHIN THE CLIA LAB AT THERANOS; CORRECT?  
09:33AM 24 A. CORRECT.  
09:33AM 25 Q. AND THEN UNDER SUBJECT MATTER D, THERE'S AN OTHER, OTHER

09:33AM 1 NOTES.

09:33AM 2 DO YOU SEE THAT?

09:33AM 3 A. YES.

09:33AM 4 Q. AND YOU STILL DON'T RECALL AUTHORIZING THIS DOCUMENT? IS

09:33AM 5 THAT YOUR TESTIMONY?

09:33AM 6 A. I DON'T RECALL.

09:33AM 7 Q. IF WE COULD TURN TO PAGE 006 OF THE DOCUMENT IN THE LOWER

09:33AM 8 QUARTILE, AND PUT THAT ON THE SCREEN?

09:33AM 9 A. YES.

09:33AM 10 Q. AND UNDER THE SUBJECT MATTER D, THE FOURTH OF THE ISSUES

09:34AM 11 IDENTIFIED ON THE FIRST PAGE, YOU SEE HERE IT SAYS, OTHER

09:34AM 12 NOTES.

09:34AM 13 DO YOU SEE THAT?

09:34AM 14 A. YES.

09:34AM 15 Q. AND THEN THE PARAGRAPH BEGINS, "EDISONS" COLON.

09:34AM 16 DO YOU SEE THAT?

09:34AM 17 A. YES.

09:34AM 18 Q. AND THOSE ARE YOUR WORDS; CORRECT? THIS PARAGRAPH WAS

09:34AM 19 WRITTEN BY YOU?

09:34AM 20 A. I DON'T RECALL.

09:34AM 21 Q. THE PARAGRAPHS CONTINUES, "THE PRIMARY CONCERN IN THIS

09:34AM 22 SECTION IS THE AVAILABLE NUMBER OF DEVICES."

09:34AM 23 DO YOU SEE THAT?

09:34AM 24 A. YES.

09:34AM 25 Q. AND THAT'S EDISON DEVICES IS THE PRIMARY CONCERN REFLECTED

09:34AM 1 IN THIS DOCUMENT; CORRECT?

09:34AM 2 A. I BELIEVE THAT WOULD BE THE ANTECEDENT, YEP.

09:34AM 3 Q. THE NUMBER OF DEVICES RELATED -- THAT THIS IS RELATING TO

09:34AM 4 IS EDISONS; CORRECT?

09:34AM 5 A. YES.

09:34AM 6 Q. AND THEN THE PARAGRAPH CONTINUES, "FOR FT4, VIT D, AND

09:34AM 7 TSH," LET'S STOP THERE.

09:34AM 8 FT4 IS A TEST THAT WAS RUN ON THE EDISON DEVICE AT THAT

09:34AM 9 TIME; CORRECT?

09:34AM 10 A. YES.

09:34AM 11 Q. AND VIT D, VITAMIN D WAS ALSO A TEST RUN ON THE EDISON AT

09:35AM 12 THAT TIME; CORRECT?

09:35AM 13 A. CORRECT.

09:35AM 14 Q. AND THEN TSH WAS ALSO RUN ON EDISON?

09:35AM 15 A. YES.

09:35AM 16 Q. AND THAT WAS USED FOR PATIENT TESTING AT THE TIME;

09:35AM 17 CORRECT?

09:35AM 18 A. CORRECT.

09:35AM 19 Q. AND THEN THE PARAGRAPH CONTINUES.

09:35AM 20 "AT LEAST A DOUBLING OF THE NUMBER OF UNITS IS NECESSARY,

09:35AM 21 IN MY OPINION."

09:35AM 22 DO YOU SEE THAT?

09:35AM 23 A. I SEE THAT.

09:35AM 24 Q. AND THOSE ARE YOUR WORDS, CORRECT, "AT LEAST A DOUBLING OF

09:35AM 25 THE NUMBER OF UNITS," MEANING EDISONS, "IS NECESSARY IN MY

09:35AM 1 OPINION."

09:35AM 2 CORRECT? THOSE ARE YOUR WORDS?

09:35AM 3 A. I DON'T REMEMBER EVER WRITING THAT.

09:35AM 4 Q. THIS IS MAY 30, 2014, AN EMAIL TO DR. ROSENDORFF THAT YOU

09:35AM 5 SENT; IS THAT RIGHT?

09:35AM 6 MR. BOSTIC: OBJECTION. ASKED AND ANSWERED.

09:35AM 7 THE COURT: SUSTAINED.

09:35AM 8 BY MR. CAZARES:

09:35AM 9 Q. MAY 30, 2014 IS MORE THAN A WEEK AFTER THE MAY 19TH, 2014,

09:35AM 10 CONVERSATION THAT YOU SAY YOU HAD WITH MS. HOLMES AND

09:35AM 11 MR. BALWANI THAT LED TO YOUR RESIGNATION; CORRECT?

09:35AM 12 A. CAN YOU REPEAT THE QUESTION?

09:35AM 13 Q. MAY 19TH, 2014, IS THE DATE THAT YOU TOLD THIS JURY THAT

09:35AM 14 YOU HAD A CONVERSATION WITH ELIZABETH HOLMES AND SUNNY BALWANI

09:36AM 15 THAT LED TO YOUR RESIGNATION?

09:36AM 16 A. I THINK IT WAS ON OR AROUND THAT DATE.

09:36AM 17 Q. YOU SAID WITHIN A DAY OR SO; CORRECT?

09:36AM 18 A. RIGHT.

09:36AM 19 Q. BECAUSE MAY 19TH IS YOUR BIRTHDAY AND THAT'S WHY YOU

09:36AM 20 REMEMBER IT; CORRECT?

09:36AM 21 A. RIGHT. BUT I STILL DON'T KNOW EXACTLY WHAT DAY I LEFT.

09:36AM 22 IF YOU HAVE A DOCUMENT WHICH CAN HELP ASSIST MY MEMORY IN THAT

09:36AM 23 REGARD, THAT WOULD BE VERY HELPFUL.

09:36AM 24 Q. YOU'RE HAVING A TOUGH TIME REMEMBERING THINGS, YEAH?

09:36AM 25 A. WHEN I LEFT, THE DATE THAT I LEFT THE COMPANY, WHICH

09:36AM 1 HAPPENED EIGHT YEARS AGO, YES.

09:36AM 2 Q. THE DATE OF EXHIBIT 20279, WHICH IS MAY 30, 2014, IS

09:36AM 3 SUBSEQUENT TO YOUR BIRTHDAY; CORRECT?

09:36AM 4 A. YES.

09:36AM 5 Q. OKAY. BACK TO PAGE 6 OF THE EXHIBIT. THE DOCUMENT

09:36AM 6 CONTINUES, "THIS IS ONE OF THE SECTIONS WHERE MORE STAFF (LAB

09:36AM 7 TECHS) WOULD BENEFIT THE MOST."

09:36AM 8 DO YOU SEE THAT?

09:36AM 9 A. TO WHERE ARE YOU REFERRING?

09:36AM 10 Q. AGAIN UNDER OTHER NOTES?

09:36AM 11 A. YES.

09:37AM 12 Q. "EDISONS: THE PRIMARY CONCERN IN THIS SECTION IS THE

09:37AM 13 AVAILABLE NUMBER OF DEVICES."

09:37AM 14 DO YOU SEE THAT?

09:37AM 15 A. I DO.

09:37AM 16 Q. AND THEN "FOR FT4, VIT D AND TSH, AT LEAST A DOUBLING OF

09:37AM 17 THE NUMBER OF UNITS IS NECESSARY, IN MY OPINION."

09:37AM 18 DO YOU SEE THAT?

09:37AM 19 A. I DO.

09:37AM 20 Q. AND THEN IT FOLLOWS, "THIS IS ONE OF THE SECTIONS WHERE

09:37AM 21 MORE STAFF (LAB TECHS) WOULD BENEFIT THE MOST."

09:37AM 22 DO YOU SEE THAT?

09:37AM 23 A. YES.

09:37AM 24 Q. AND AT THE TIME THERANOS WAS HIRING MORE STAFF IN THE LAB;

09:37AM 25 CORRECT?

09:37AM 1 A. YES.

09:37AM 2 Q. AND THEN THE MEMO CONTINUES.

09:37AM 3 "I HAVE BEEN INFORMED THAT THE UNITS REQUIRE SERVICE WITH

09:37AM 4 HIGH FREQUENCY, SO A CONTINUOUS MONITORING OF THIS SECTION IS

09:37AM 5 WARRANTED."

09:37AM 6 DO YOU SEE THAT?

09:37AM 7 A. YES.

09:37AM 8 Q. YOU WROTE THAT; CORRECT?

09:37AM 9 A. I DON'T RECALL.

09:37AM 10 Q. NOW, YOU HAD TESTIFIED BEFORE TO THIS JURY ON FRIDAY THAT

09:37AM 11 YOU TOLD DR. ROSENDORFF ON MANY OCCASIONS TO STOP USING THE

09:37AM 12 EDISONS.

09:37AM 13 THAT'S WHAT YOU TOLD THIS JURY; CORRECT?

09:37AM 14 A. YES.

09:37AM 15 Q. THE MEMO REFLECTED HERE AT 20279 SAYS TO DOUBLE THE NUMBER

09:38AM 16 OF EDISONS ON MAY 30, 2014; CORRECT?

09:38AM 17 A. CORRECT.

09:38AM 18 Q. IT DOESN'T SAY STOP USING THEM IN THIS MEMO, DOES IT?

09:38AM 19 A. CORRECT.

09:38AM 20 Q. DR. PANDORI, IF YOU COULD TAKE A LOOK WITHIN THE DOCUMENTS

09:38AM 21 THAT YOU HAVE FOR EXHIBIT 20498, 20498. THAT WOULD BE IN THE

09:38AM 22 SMALL BINDER IN FRONT OF YOU THAT SAYS PANDORI, MARK PANDORI ON

09:39AM 23 THE FRONT.

09:39AM 24 20498.

09:39AM 25 A. I'VE LOCATED IT.

09:39AM 1 Q. OKAY. 20498 IS ANOTHER EMAIL DATED MAY 30, 2014.

09:39AM 2 DO YOU SEE THAT?

09:39AM 3 A. YES.

09:39AM 4 Q. AND THAT EMAIL APPEARS TO BE FROM YOURSELF.

09:39AM 5 DO YOU SEE THAT?

09:39AM 6 A. YES.

09:39AM 7 Q. TO MONA RAMAMURTHY, THE HEAD OF HR; CORRECT?

09:39AM 8 A. YES.

09:39AM 9 Q. AND TO MR. BALWANI AT THEIR THERANOS EMAIL ADDRESSES?

09:39AM 10 A. YES.

09:39AM 11 Q. AND THE SUBJECT LINE, TRANSITION REPORT.

09:39AM 12 DO YOU SEE THAT AS WELL?

09:39AM 13 A. YES.

09:39AM 14 MR. CAZARES: YOUR HONOR, MOVE TO ADMIT

09:39AM 15 EXHIBIT 20498. THIS IS ALSO THE SUBJECT TO THE EMAIL

09:39AM 16 STIPULATION.

09:39AM 17 MR. BOSTIC: NO OBJECTION.

09:39AM 18 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

09:39AM 19 (DEFENDANT'S EXHIBIT 20498 WAS RECEIVED IN EVIDENCE.)

09:39AM 20 BY MR. CAZARES:

09:39AM 21 Q. SO YOU SEE, DR. PANDORI, UP ON THE SCREEN THE EMAIL

09:40AM 22 APPEARS TO BE FROM YOURSELF.

09:40AM 23 DO YOU SEE THAT?

09:40AM 24 A. YES.

09:40AM 25 Q. AND THEN TO MS. RAMAMURTHY AND MR. BALWANI.

09:40AM 1 DO YOU SEE THAT?

09:40AM 2 A. YES.

09:40AM 3 Q. AND SO YOU SENT THIS EMAIL; CORRECT?

09:40AM 4 A. I DON'T RECALL. ACCORDING TO THE HEADER, YES.

09:40AM 5 Q. MAY 30, 2014. SO YOU WERE STILL WORKING THAT DAY AT

09:40AM 6 THERANOS; CORRECT?

09:40AM 7 A. I DON'T RECALL WHAT DAY I LEFT THERANOS.

09:40AM 8 Q. AND THE ATTACHMENT TO THIS DOCUMENT, IT SAYS TRANSITION

09:40AM 9 MWP 05 2014.DOCX.

09:40AM 10 DO YOU SEE THAT?

09:40AM 11 A. I DO.

09:40AM 12 Q. AND THAT'S THE SAME DOCUMENT REFERENCED IN 20279 THAT WE

09:40AM 13 JUST LOOKED AT; CORRECT?

09:40AM 14 A. I BELIEVE SO, YES.

09:40AM 15 Q. AND AGAIN, THE SUBJECT LINE OF THIS EMAIL IS TRANSITION

09:40AM 16 REPORT.

09:40AM 17 DO YOU SEE THAT?

09:40AM 18 A. YES.

09:40AM 19 Q. AND THE EMAIL FROM YOURSELF READS, "ATTACHED.

09:40AM 20 "A DOCUMENT DETAILING THE STATE OF VARIOUS PROJECTS OR

09:40AM 21 WORKS IN THE CLIA/BUGS LABORATORIES. IT CONTAINS ADDITIONAL

09:40AM 22 TRANSITIONAL INFORMATION DETAILING THE ADMINISTRATIVE FUNCTIONS

09:40AM 23 WHICH I HAVE BEEN PERFORMING AS NEW EMPLOYEES ARRIVE AND ON A

09:40AM 24 DAILY BASIS.

09:41AM 25 "I WAS GOING TO SHARE THIS WITH ADAM WITH YOUR PERMISSION.

09:41AM 1 MARK PANDORI."

09:41AM 2 DO YOU SEE THAT?

09:41AM 3 A. I DO SEE THAT.

09:41AM 4 Q. AND YOU SENT THAT?

09:41AM 5 A. ACCORDING TO THE HEADER.

09:41AM 6 Q. AND YOU SENT THE MEMO REFLECTED AND ATTACHED IN

09:41AM 7 EXHIBIT 20498 TO DR. ROSENDORFF AS WE'VE ALREADY SEEN; CORRECT?

09:41AM 8 A. WELL, THAT EMAIL DOESN'T HAVE A FROM LINE ON IT, SO I

09:41AM 9 DON'T RECALL.

09:41AM 10 Q. SO YOU DON'T -- YOU'RE TELLING THIS JURY YOU DID NOT SEND

09:41AM 11 THE TRANSITION REPORT TO DR. ROSENDORFF?

09:41AM 12 IS THAT WHAT YOU'RE SAYING?

09:41AM 13 MR. BOSTIC: ASKED AND ANSWERED.

09:41AM 14 THE COURT: SUSTAINED.

09:41AM 15 BY MR. CAZARES:

09:41AM 16 Q. IF WE CAN TURN TO THE FRONT PAGE OF THE ATTACHMENT ON

09:41AM 17 20498?

09:41AM 18 A. I'M THERE.

09:41AM 19 Q. AND WE'LL PUT IT UP ON THE SCREEN FOR THE JURY.

09:42AM 20 AND YOU SEE IT APPEARS TO BE THE SAME MEMO THAT WAS

09:42AM 21 REFLECTED IN EXHIBIT 20279; CORRECT?

09:42AM 22 A. IT DOES.

09:42AM 23 Q. AND IF WE COULD FLIP BACK TO SUBJECT MATTER D ON PAGE 6,

09:42AM 24 THIS MEMO TO MR. BALWANI AND MS. RAMAMURTHY ALSO INCLUDES A

09:42AM 25 PASSAGE ABOUT THE EDISONS.

09:42AM 1 DO YOU SEE THAT?

09:42AM 2 A. YES.

09:42AM 3 Q. AND THIS SAME MEMO TO MS. RAMAMURTHY AND MR. BALWANI ALSO

09:42AM 4 READS, "THE PRIMARY CONCERN IN THIS SECTION IS THE AVAILABLE

09:42AM 5 NUMBER OF DEVICES."

09:42AM 6 DO YOU SEE THAT?

09:42AM 7 A. YES, I DO.

09:42AM 8 Q. AND THIS MEMO TO MR. BALWANI ALSO READS, "FOR FT4, VIT D,

09:42AM 9 AND TSH, AT LEAST A DOUBLING OF THE NUMBER OF UNITS IS

09:42AM 10 NECESSARY, IN MY OPINION."

09:42AM 11 DO YOU SEE THAT?

09:42AM 12 A. YES.

09:42AM 13 Q. AND THIS IS A DOCUMENT ATTACHED TO AN EMAIL FROM YOU TO

09:42AM 14 MR. BALWANI; CORRECT?

09:42AM 15 A. TO MR. BALWANI, YES.

09:42AM 16 Q. OKAY. AND THIS IS MAY 30, 2014; CORRECT?

09:42AM 17 A. THAT'S WHAT IS DATED ON THE EMAIL.

09:42AM 18 Q. THIS WOULD HAVE BEEN AFTER YOUR DISCUSSION WITH MS. HOLMES

09:42AM 19 AND MR. BALWANI ON OR ABOUT YOUR BIRTHDAY, MAY 19TH, 2014;

09:43AM 20 CORRECT?

09:43AM 21 A. I DON'T HAVE THE DATE STRAIGHT. I NEED TO KNOW WHAT DAY

09:43AM 22 THAT HAPPENED. IF YOU HAVE ANY DOCUMENTS, THAT MIGHT HELP ME.

09:43AM 23 Q. YOU TOLD THIS JURY THAT YOU HAD THE DISCUSSION WITH

09:43AM 24 MR. BALWANI AND MS. HOLMES, TRIGGERED BY THE "WIRED" ARTICLE

09:43AM 25 THAT LED TO YOUR RESIGNATION WITHIN FIVE MINUTES, ON YOUR

09:43AM 1 BIRTHDAY, MAY 19TH, 2014, GIVE OR TAKE A DAY; CORRECT?

09:43AM 2 A. CORRECT.

09:43AM 3 Q. AND THIS MEMO THAT YOU'RE SENDING TO MR. BALWANI ON

09:43AM 4 MAY 30, 2014, IS SUBSEQUENT TO THAT DISCUSSION?

09:43AM 5 A. IT IS, YES.

09:43AM 6 Q. AND YOU ALSO TESTIFIED TO THIS JURY THAT YOU HAD TWO

09:43AM 7 DISCUSSIONS WITH MR. BALWANI ABOUT THE USE OF EDISONS; CORRECT?

09:43AM 8 A. I DON'T REMEMBER IF I SAID TWO, BUT THERE WERE

09:43AM 9 DISCUSSIONS.

09:43AM 10 Q. YOU SAID YOU HAD TWO DISCUSSIONS, ONE WITH MR. BALWANI

09:43AM 11 WHILE THE TWO OF YOU WERE MOVING DEVICES OR EQUIPMENT IN WHICH

09:43AM 12 YOU TOLD HIM THAT THE LAB SHOULD STOP USING THE EDISONS;

09:43AM 13 CORRECT?

09:43AM 14 A. I DID LET HIM KNOW THAT.

09:43AM 15 Q. AND THEN YOU SAID YOU HAD ANOTHER DISCUSSION WITH

09:44AM 16 MR. BALWANI ABOUT THE USE OF EDISONS WHERE YOU TOLD HIM TO STOP

09:44AM 17 USING THE EDISONS IN YOUR OFFICE WHERE MR. BALWANI WAS

09:44AM 18 ACCCOMPANIED BY TWO PROJECT MANAGERS; CORRECT?

09:44AM 19 A. WELL, AT THAT TIME I DIDN'T TELL HIM THAT. I THINK THAT

09:44AM 20 WAS PART OF THE DISCUSSION.

09:44AM 21 Q. AND YOU TESTIFIED ON FRIDAY THAT BOTH OF THOSE DISCUSSIONS

09:44AM 22 WITH MR. BALWANI ABOUT THE USE OF THE EDISONS TOOK PLACE IN

09:44AM 23 MARCH OR APRIL OF 2014; CORRECT?

09:44AM 24 THAT'S WHAT YOU TESTIFIED TO?

09:44AM 25 A. CORRECT.

09:44AM 1 Q. SO THIS EMAIL WITH THE ATTACHMENT AND THE REPORT TO  
09:44AM 2 MR. BALWANI ON MAY 30, 2014, IS SUBSEQUENT TO THOSE DISCUSSIONS  
09:44AM 3 YOU SAY YOU HAD WITH MR. BALWANI ABOUT THE USE OF EDISONS;  
09:44AM 4 CORRECT?  
09:44AM 5 A. THEY'RE SUBSEQUENT.  
09:44AM 6 Q. OKAY. AND HERE IN LOOKING AT 20498, THE MEMO THAT YOU  
09:44AM 7 SENT TO MR. BALWANI, UNDER OTHER NOTES, EDISONS, YOU DID NOT  
09:44AM 8 INCLUDE ANY LANGUAGE THERE ABOUT A CONCERN THAT YOU HAD WITH  
09:44AM 9 THE ACCURACY OF EDISONS, DID YOU?  
09:44AM 10 A. NO.  
09:44AM 11 Q. IN 20498, IN THE MEMO TO MR. BALWANI, YOU DID NOT WRITE  
09:45AM 12 THAT YOU HAD CONCERN ABOUT PATIENT HARM RELATING TO THE  
09:45AM 13 ACCURACY OF EDISONS, DID YOU?  
09:45AM 14 A. NO, I DID NOT.  
09:45AM 15 Q. YOU CAN SET THAT ASIDE.  
09:45AM 16 IN THE DOCUMENT BINDERS THAT YOU HAVE, IF YOU COULD PLEASE  
09:45AM 17 LOOK FOR 20277. 20277. IT SHOULD BE IN VOLUME 2.  
09:46AM 18 A. I'M THERE.  
09:46AM 19 Q. OKAY. AND 20277 APPEARS TO BE AN EMAIL DATED MAY 21ST OF  
09:46AM 20 2014.  
09:46AM 21 DO YOU SEE THAT?  
09:46AM 22 A. YES.  
09:46AM 23 MR. CAZARES: I APOLOGIZE, YOUR HONOR.  
09:46AM 24 Q. AND THE EMAIL APPEARS TO BE A MESSAGE FROM YOURSELF TO  
09:46AM 25 DR. ROSENDORFF?

09:46AM 1 A. YES.

09:46AM 2 Q. AND THE EMAIL REFERENCES MEETINGS BETWEEN YOURSELF AND

09:46AM 3 DR. ROSENDORFF AND THE CLIA STAFF?

09:47AM 4 A. YES.

09:47AM 5 Q. AND YOU'RE ESSENTIALLY WRITING A DRAFT MESSAGE TO

09:47AM 6 DR. ROSENDORFF BEFORE SENDING IT TO THE CLIA STAFF; CORRECT?

09:47AM 7 A. CORRECT.

09:47AM 8 Q. AND IT WAS YOUR REGULAR PRACTICE TO USE EMAIL TO

09:47AM 9 COMMUNICATE WITH DR. ROSENDORFF REGARDING CLIA MATTERS AT THAT

09:47AM 10 TIME; CORRECT?

09:47AM 11 A. CORRECT.

09:47AM 12 Q. AND YOU RECALL HAVING THOSE MEETINGS WITH THE CLIA STAFF

09:47AM 13 THAT ARE REFERENCED IN THE EMAIL?

09:47AM 14 A. NOT AT THIS POINT I DON'T, BUT THEY ARE REFERRED TO HERE.

09:47AM 15 Q. BUT YOU DID HAVE MEETINGS WITH CLIA STAFF ABOUT ISSUES

09:47AM 16 RELATING TO THE CLINICAL LAB REGULARLY, DIDN'T YOU?

09:47AM 17 A. YES.

09:47AM 18 Q. INCLUDING BEFORE YOU LEFT THERANOS IN MAY OF 2014;

09:47AM 19 CORRECT?

09:47AM 20 A. CORRECT.

09:47AM 21 Q. AND IT WAS YOUR UNDERSTANDING THAT THOSE EMAILS AND

09:47AM 22 COMMUNICATIONS THAT YOU HAD WITH DR. ROSENDORFF WERE MAINTAINED

09:47AM 23 AT THERANOS DURING THE REGULAR COURSE OF BUSINESS; CORRECT?

09:47AM 24 A. I WOULD ASSUME SO.

09:47AM 25 MR. CAZARES: YOUR HONOR, MOVE TO ADMIT 20277.

09:48AM 1 MR. BOSTIC: NO OBJECTION.

09:48AM 2 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

09:48AM 3 (DEFENDANT'S EXHIBIT 20277 WAS RECEIVED IN EVIDENCE.)

09:48AM 4 MR. CAZARES: IF WE CAN PUT THAT UP ON THE SCREEN

09:48AM 5 AND JUST HIGHLIGHT THE TOP PORTION FIRST, THOUGH.

09:48AM 6 Q. AND THE LATTER OF THE MESSAGES IN THE EXHIBIT 20277

09:48AM 7 APPEARS TO BE FROM DR. ROSENDORFF TO YOURSELF.

09:48AM 8 DO YOU SEE THAT?

09:48AM 9 A. YES.

09:48AM 10 Q. OKAY. AND IT'S MAY 21, 2014.

09:48AM 11 DO YOU SEE THAT AS WELL?

09:48AM 12 A. I DO.

09:48AM 13 Q. AND MAY 21, 2014, THAT'S TWO DAYS AFTER YOUR BIRTHDAY THAT

09:48AM 14 YEAR; CORRECT?

09:48AM 15 A. YES.

09:48AM 16 Q. SO AFTER OR AROUND THE TIME OF THE PURPORTED CONVERSATIONS

09:48AM 17 THAT YOU HAD WITH MR. BALWANI AND MS. HOLMES THAT LED TO YOUR

09:48AM 18 RESIGNATION; CORRECT?

09:48AM 19 A. WELL, AGAIN, I DON'T REMEMBER WHAT DATE THAT WAS EXACTLY.

09:48AM 20 Q. AND IN THE MESSAGE AT 20277, DR. ROSENDORFF WRITES TO

09:48AM 21 YOURSELF, "MARK.

09:48AM 22 "I THINK THAT LOOKS JUST FINE.

09:48AM 23 "THANKS.

09:48AM 24 "ADAM."

09:49AM 25 DO YOU SEE THAT?

09:49AM 1 A. YES.

09:49AM 2 Q. AND IF WE CAN SCROLL DOWN TO THE LOWER PORTION OF THE

09:49AM 3 EMAIL.

09:49AM 4 AND THIS APPEARS TO BE A MESSAGE FROM YOURSELF TO

09:49AM 5 DR. ROSENDORFF, MAY 21, 2014.

09:49AM 6 DO YOU SEE THAT?

09:49AM 7 A. CORRECT.

09:49AM 8 Q. AND YOU SAY, "IS THIS OK," QUESTION MARK?

09:49AM 9 A. THAT'S RIGHT.

09:49AM 10 Q. AND IT APPEARS THAT YOU'RE ASKING FOR DR. ROSENDORFF'S

09:49AM 11 APPROVAL OF THE MESSAGE.

09:49AM 12 DO YOU SEE THAT?

09:49AM 13 A. YES.

09:49AM 14 Q. AND IN THE MESSAGE YOU WROTE IN THE DRAFT, "DEAR CLIA

09:49AM 15 LABORATORY MEMBERS,

09:49AM 16 "ADAM AND I WERE ABLE TO DISCUSS WITH ONE ANOTHER THE

09:49AM 17 RESULTS OF OUR ONE ON ONE CONVERSATIONS WITH EACH OF YOU, AND

09:49AM 18 ONE OF EVERYONE'S PRIMARY CONCERN IS WORK HOURS."

09:49AM 19 DO YOU SEE THAT?

09:49AM 20 A. YES.

09:49AM 21 Q. AND THAT'S A REFERENCE TO CONCERN OF THE CLIA STAFF THAT

09:49AM 22 YOU'RE REPORTING TO DR. ROSENDORFF; CORRECT?

09:49AM 23 A. YES.

09:49AM 24 Q. AND AS FAR AS CONCERN BY THE CLIA STAFF, THERE IS NO

09:49AM 25 MENTION HERE IN THIS EMAIL ABOUT ACCURACY AND RELIABILITY OF

09:49AM 1 THE EDISON; CORRECT?

09:50AM 2 A. THAT'S NOT DISCUSSED IN THIS EMAIL AS FAR AS I CAN TELL.

09:50AM 3 Q. THE PRIMARY CONCERN HERE IS WORK HOURS; CORRECT?

09:50AM 4 A. CORRECT.

09:50AM 5 Q. AND AT THE BOTTOM OF THE MESSAGE YOU FINISH, "THANKS FOR

09:50AM 6 ALL OF THE CANDOR AND SUGGESTIONS YOU EACH PROVIDED IN THE

09:50AM 7 COURSE OF YOUR INDIVIDUAL MEETINGS. STEP BY STEP, WE CAN

09:50AM 8 ADDRESS THESE ISSUES IN OUR AIM TO IMPROVE THE CLIA LABORATORY.

09:50AM 9 "SINCERELY,

09:50AM 10 "MARK PANDORI."

09:50AM 11 DO YOU SEE THAT?

09:50AM 12 A. I DO.

09:50AM 13 Q. AND YOU RECALL THE MEETINGS WITH THE CLIA STAFF?

09:50AM 14 A. I REMEMBER MEETING WITH THEM IN GROUPS, AND OCCASIONALLY

09:50AM 15 SOME OF THEM INDIVIDUALLY. BUT I DON'T REMEMBER MEETING WITH

09:50AM 16 THEM INDIVIDUALLY IN A SERIES LIKE THIS.

09:50AM 17 Q. YOU CAN SET THAT ASIDE. YOU CAN SET THAT EXHIBIT ASIDE.

09:50AM 18 AND IF YOU COULD TAKE A LOOK AT EXHIBIT 20496. 20496.

09:51AM 19 AND THAT SHOULD BE IN THE SMALLER BINDER THAT SAYS MARK PANDORI

09:51AM 20 ON THE FRONT.

09:51AM 21 A. I'M THERE.

09:51AM 22 Q. AND 20496, THE MESSAGE AT THE TOP APPEARS TO BE FROM

09:51AM 23 MS. RAMAMURTHY TO YOURSELF AT YOUR THERANOS ADDRESS.

09:51AM 24 DO YOU SEE THAT?

09:51AM 25 A. YES.

09:51AM 1 Q. AND DATED 5/27/2014.

09:51AM 2 DO YOU SEE THAT?

09:51AM 3 A. I DO.

09:51AM 4 Q. AND THE SUBJECT LINE IS TRANSITION.

09:51AM 5 DO YOU SEE THAT?

09:51AM 6 A. YES.

09:51AM 7 Q. AND MS. RAMAMURTHY WAS THE HEAD OF HR?

09:51AM 8 A. THAT'S MY UNDERSTANDING.

09:51AM 9 Q. AND YOU COMMUNICATED WITH HER RELATING TO YOUR EXIT

09:51AM 10 PROCESS FROM THERANOS; CORRECT?

09:51AM 11 A. CORRECT.

09:51AM 12 Q. AND THIS APPEARS TO BE A PART OF THAT PROCESS; CORRECT?

09:51AM 13 A. I HAVE TO READ THE EMAIL.

09:51AM 14 Q. WHY DON'T YOU TAKE A LOOK AT IT AND REFRESH YOUR

09:51AM 15 RECOLLECTION.

09:52AM 16 A. I'VE READ THE EMAIL.

09:52AM 17 Q. AND YOU SAID THAT YOU HAD COMMUNICATIONS WITH

09:52AM 18 MS. RAMAMURTHY RELATING TO YOUR EXIT PROCESS FROM THERANOS;

09:52AM 19 CORRECT?

09:52AM 20 A. I DID.

09:52AM 21 Q. AND THIS MESSAGE AT 20496 APPEARS TO BE A PART OF THAT

09:52AM 22 PROCESS; CORRECT?

09:52AM 23 A. THE WORD "TRANSITION" IMPLIES IT.

09:52AM 24 MR. CAZARES: MOVE TO ADMIT 20496, YOUR HONOR.

09:52AM 25 MR. BOSTIC: NO OBJECTION.

09:52AM 1 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

09:52AM 2 (DEFENDANT'S EXHIBIT 20496 WAS RECEIVED IN EVIDENCE.)

09:52AM 3 BY MR. CAZARES:

09:52AM 4 Q. AND JUST LOOKING AT THE HEADER OF THE MESSAGE, IT STARTS

09:52AM 5 WITH -- AGAIN, IT APPEARS TO BE FROM YOURSELF -- FROM

09:52AM 6 MS. RAMAMURTHY, I'M SORRY, TO YOURSELF, MAY 27, 2014.

09:52AM 7 DO YOU SEE THAT?

09:52AM 8 A. I DO.

09:52AM 9 Q. AND THE SUBJECT MATTER IS TRANSITION.

09:52AM 10 DO YOU SEE THAT?

09:52AM 11 A. YES.

09:52AM 12 Q. AND IN THE MESSAGE FROM MS. RAMAMURTHY SHE WRITES, "HI

09:52AM 13 MARK,

09:52AM 14 "SUNNY IS OUT TODAY SO HE WANTED ME TO CONNECT WITH YOU ON

09:52AM 15 TRANSITION. HE SAID THAT YOU CAN WORK FROM HOME TOMORROW AND

09:53AM 16 THURSDAY TO FOCUS ON DOCUMENTING THE FOLLOWING:"

09:53AM 17 AND THE FIRST BULLET IS "HIV AND HCV MICRO VOLUME

09:53AM 18 PROJECT."

09:53AM 19 DO YOU SEE THAT?

09:53AM 20 A. YES.

09:53AM 21 Q. AND THE SECOND BULLET IS, "PROCESS YOU WERE GOING TO SET

09:53AM 22 UP IN EMC FOR THE BUGS LAB."

09:53AM 23 DO YOU SEE THAT?

09:53AM 24 A. YES.

09:53AM 25 Q. AND THEN THAT BULLET CONTINUES, "PLEASE INCLUDE ALL

09:53AM 1 CULTURE EQUIPMENT THAT YOU BOUGHT AND DETAILS ABOUT WHAT YOU  
09:53AM 2 PLANNED ON DOING THERE. "

09:53AM 3 DO YOU SEE THAT?

09:53AM 4 A. I DO, YES.

09:53AM 5 Q. AND THERE'S A THIRD BULLET IN THE MESSAGE FROM  
09:53AM 6 MS. RAMAMURTHY TO YOURSELF THAT SAYS, "ANYTHING ELSE THAT YOU  
09:53AM 7 BELIEVE NEEDS TO BE DOCUMENTED FOR EFFECTIVE TRANSITION  
09:53AM 8 PURPOSES."

09:53AM 9 DO YOU SEE THAT?

09:53AM 10 A. I DO SEE THAT.

09:53AM 11 Q. SO YOU WERE INVITED TO INCLUDE ANYTHING ELSE THAT YOU  
09:53AM 12 BELIEVED NEEDED TO BE COMMUNICATED TO DR. ROSENDORFF IN THE  
09:53AM 13 TRANSITION MEMO THAT WE HAVE ALREADY TAKEN A LOOK AT; CORRECT?

09:53AM 14 A. IT APPEARS THAT I WAS INVITED TO SHARE INFORMATION WITH  
09:53AM 15 THEM.

09:53AM 16 Q. AND YOU DID SO; CORRECT?

09:53AM 17 A. WE'VE SEEN THAT IN EMAILS TODAY.

09:53AM 18 Q. AND THOSE WERE YOUR WORDS IN THE TRANSITION MEMO TO  
09:54AM 19 DR. ROSENDORFF AND TO MR. BALWANI; CORRECT?

09:54AM 20 A. WELL, THE TRANSITION MEMO I DON'T RECALL SENDING  
09:54AM 21 DR. ROSENDORFF. BUT OTHERWISE THE ONE SENT TO MR. BALWANI AND  
09:54AM 22 MS. RAMAMURTHY, WE DID LOOK AT.

09:54AM 23 Q. YOU DON'T DENY SENDING THE TRANSITION MEMO TO  
09:54AM 24 DR. ROSENDORFF, DO YOU?

09:54AM 25 A. I SAID I DON'T RECALL.

09:54AM 1 Q. YOU CAN SAID THAT ASIDE.

09:54AM 2 IF YOU COULD TAKE A LOOK AT EXHIBIT 20501. 20501.

09:54AM 3 THAT SHOULD ALSO BE IN THAT SMALL BINDER.

09:54AM 4 A. YES.

09:54AM 5 Q. DO YOU HAVE 20501?

09:54AM 6 A. YES.

09:54AM 7 Q. NOW, 20501 APPEARS TO BE A MESSAGE FROM YOURSELF TO

09:54AM 8 MR. BALWANI DATED MAY 30, 2014.

09:54AM 9 DO YOU SEE THAT?

09:54AM 10 A. YES.

09:54AM 11 Q. AND THE SUBJECT MATTER IS HCV SMALL VOLUME THOUGHTS.

09:55AM 12 DO YOU SEE THAT?

09:55AM 13 A. YES, I DO.

09:55AM 14 Q. AND HCV WAS ONE OF THE ISSUES ADDRESSED IN THAT TRANSITION

09:55AM 15 MEMO; CORRECT?

09:55AM 16 A. IT WAS IN THAT DOCUMENT.

09:55AM 17 Q. BECAUSE HCV WAS AN INFECTIOUS DISEASE ISSUE THAT YOU DID

09:55AM 18 SOME WORK ON AT THERANOS; CORRECT?

09:55AM 19 A. YES.

09:55AM 20 MR. CAZARES: MOVE TO ADMIT 20501, YOUR HONOR.

09:55AM 21 MR. BOSTIC: YOUR HONOR, HEARSAY. ALSO

09:55AM 22 AUTHENTICATION.

09:55AM 23 I'LL NOTE THAT THE DOCUMENT DOESN'T HAVE A BATES NUMBER.

09:55AM 24 THE COURT: DO YOU WANT TO LAY A FOUNDATION?

09:55AM 25 MR. CAZARES: YES, YOUR HONOR.

09:55AM 1 Q. DR. PANDORI, IN YOUR TIME AT THERANOS, YOU USED EMAIL TO  
09:55AM 2 COMMUNICATE WITH BOTH THE CLIA LAB AS WELL AS MANAGEMENT;  
09:55AM 3 CORRECT?  
09:55AM 4 A. CORRECT.  
09:55AM 5 Q. INCLUDING MR. BALWANI?  
09:55AM 6 A. OH, YEAH.  
09:55AM 7 Q. AND IN THOSE MESSAGES, YOU DID YOUR BEST TO TRY TO  
09:55AM 8 COMMUNICATE MATTERS RELATING TO THE LAB ACCURATELY IN ORDER TO  
09:55AM 9 PERFORM YOUR BUSINESS; CORRECT?  
09:56AM 10 A. YES.  
09:56AM 11 Q. AND IT'S YOUR UNDERSTANDING THAT THOSE MESSAGES WERE  
09:56AM 12 MAINTAINED BY THERANOS IN THE REGULAR COURSE OF BUSINESS;  
09:56AM 13 CORRECT?  
09:56AM 14 A. IT'S MY UNDERSTANDING.  
09:56AM 15 Q. AND THIS HCV PROJECT -- OR HCV WAS AN INFECTIOUS DISEASE  
09:56AM 16 AND AN ISSUE THAT YOU DID SOME WORK ON DURING YOUR TIME AT  
09:56AM 17 THERANOS; CORRECT?  
09:56AM 18 A. CORRECT.  
09:56AM 19 Q. AND AS WE SAW IN THE TRANSITION MEMO, YOU COMMUNICATED  
09:56AM 20 UPDATES TO MR. BALWANI AND MS. RAMAMURTHY RELATED TO YOUR WORK  
09:56AM 21 ON THE HCV PROJECT AS REFLECTED IN EXHIBIT 20501; CORRECT?  
09:56AM 22 A. HCV WAS A TOPIC IN THAT DOCUMENT.  
09:56AM 23 Q. AND THAT'S AN ISSUE THAT YOU WORKED ON; CORRECT?  
09:56AM 24 A. YES.  
09:56AM 25 MR. CAZARES: MOVE TO ADMIT 20501, YOUR HONOR.

09:56AM 1 MR. BOSTIC: THE DEFENDANT'S STATEMENT IS STILL  
09:56AM 2 HEARSAY, AND ALSO AUTHENTICATION.  
09:57AM 3 MR. CAZARES: THE ISSUE RELATES TO, YOUR HONOR,  
09:57AM 4 PRIOR INCONSISTENT STATEMENTS ABOUT THE TIME OR TRANSITION, AS  
09:57AM 5 WELL AS STATE OF MIND OF MR. BALWANI RELATING TO DR. PANDORI'S  
09:57AM 6 EXIT.  
09:57AM 7 THE COURT: IS THAT AN ISSUE?  
09:57AM 8 MR. CAZARES: YEAH.  
09:57AM 9 THE COURT: YOUR CLIENT'S STATE OF MIND AS TO THE  
09:57AM 10 EXIT?  
09:57AM 11 MR. CAZARES: THE BASIS, THE REASONS FOR THE EXIT.  
09:57AM 12 THE COURT: ALL RIGHT. I'LL ADMIT THIS UNDER  
09:57AM 13 803(6).  
09:57AM 14 (DEFENDANT'S EXHIBIT 20501 WAS RECEIVED IN EVIDENCE.)  
09:57AM 15 THE COURT: AND IT MAY BE PUBLISHED.  
09:57AM 16 BY MR. CAZARES:  
09:57AM 17 Q. WE HAVE 20501 UP ON THE SCREEN.  
09:57AM 18 DO YOU SEE THAT, DR. PANDORI?  
09:57AM 19 A. YES.  
09:57AM 20 Q. AND AGAIN, THE LATTER OF THE MESSAGES IN THE CHAIN APPEARS  
09:57AM 21 TO BE FROM YOURSELF TO MR. BALWANI?  
09:57AM 22 A. IT DOES.  
09:57AM 23 Q. MAY 30, 2014. SUBJECT MATTER HCV SMALL VOLUME THOUGHTS.  
09:58AM 24 DO YOU SEE THAT?  
09:58AM 25 A. I DO SEE IT.

09:58AM 1 Q. AND FURTHER DOWN IN THE CHAIN, GOING TO THE BOTTOM OF THE  
09:58AM 2 FIRST PAGE, IT APPEARS TO BE A MESSAGE FROM YOURSELF TO  
09:58AM 3 MR. BALWANI, MAY 30, 2014, WHERE YOU WROTE, "SUNNY,  
09:58AM 4 "WANTED TO MAKE SURE I GAVE YOU MY HCV THOUGHTS YOU ASKED  
09:58AM 5 FOR, IN CASE THEY HELP."  
09:58AM 6 DO YOU SEE THAT?  
09:58AM 7 A. I DO.  
09:58AM 8 Q. AND YOU WROTE THIS MESSAGE TO MR. BALWANI; CORRECT?  
09:58AM 9 A. YEAH, I DON'T RECALL, BUT IT'S INDICATED IN THE HEADER  
09:58AM 10 THAT I DID.  
09:58AM 11 Q. NOW, ON FRIDAY YOU TESTIFIED IN RELATION TO THAT  
09:58AM 12 CONVERSATION WITH MS. HOLMES AND MR. BALWANI ON OR ABOUT YOUR  
09:58AM 13 BIRTHDAY, MAY 19TH, 2014, THAT AFTER THAT CONVERSATION, WITHIN  
09:58AM 14 FIVE MINUTES YOU RESIGNED; CORRECT?  
09:58AM 15 A. YES.  
09:58AM 16 Q. AND YOU HAD NO FURTHER COMMUNICATIONS WITH MR. BALWANI  
09:58AM 17 AFTER THAT MEETING.  
09:58AM 18 THAT'S WHAT YOU TESTIFIED; CORRECT?  
09:58AM 19 A. YEAH, I DON'T REMEMBER TALKING WITH MR. BALWANI AFTER  
09:58AM 20 THAT.  
09:58AM 21 Q. BUT YOU DID COMMUNICATE WITH HIM BY EMAIL APPARENTLY;  
09:58AM 22 CORRECT?  
09:58AM 23 A. WELL, WE WOULD HAVE TO GET THE DATES STRAIGHTENED OUT FOR  
09:59AM 24 ME TO ANSWER THAT WITH CONFIDENCE.  
09:59AM 25 Q. MAY 30, 2014, IS REFLECTED IN 20501; CORRECT?

09:59AM 1 A. YES.

09:59AM 2 Q. AND THAT'S AFTER YOUR BIRTHDAY, MAY 19TH, 2014; CORRECT?

09:59AM 3 A. CORRECT.

09:59AM 4 Q. IN THE MESSAGE YOU WRITE, AFTER YOU SAID YOU WANTED TO

09:59AM 5 GIVE MY HCV THOUGHTS YOU ASKED FOR IN CASE THEY HELP, YOU

09:59AM 6 PROVIDED SOME INFORMATION RELATING TO THE HCV SMALL VOLUME

09:59AM 7 PROJECT AT THE LAB; CORRECT?

09:59AM 8 A. IT SAYS THAT THERE, YEP.

09:59AM 9 Q. AND THEN MR. BALWANI RESPONDED BACK TO YOU, "THANKS FOR

09:59AM 10 THE SUMMARY.

09:59AM 11 "I AGREE. THIS IS PRECISELY WHAT WE WERE EXPECTING AND

09:59AM 12 PLANNING TO DO SO THIS IS IN LINE WITH OUR ESTIMATES."

09:59AM 13 DO YOU SEE THAT?

09:59AM 14 A. YES.

09:59AM 15 Q. AND "AS YOU KNOW, THIS IS THERANOS'S TRADE SECRET AND

09:59AM 16 SOMETHING WE INTEND TO OFFER SOON."

09:59AM 17 DO YOU SEE THIS?

09:59AM 18 A. YES.

09:59AM 19 Q. AND THIS HCV SMALL PROJECT VOLUME RELATED TO TESTS OR A

10:00AM 20 TEST RUN ON THE EDISON DEVICE; CORRECT?

10:00AM 21 A. NO, THAT'S NOT CORRECT.

10:00AM 22 Q. IT WAS RELATING TO THERANOS'S FINGERSTICK SMALL SAMPLE

10:00AM 23 TESTING; CORRECT?

10:00AM 24 A. WELL, THERE WERE TWO HCV TESTS THAT WERE DISCUSSED IN MY

10:00AM 25 TIME AT THERANOS. ONE OF THEM IS WHAT IS KNOWN AS A VIRAL LOAD

10:00AM 1 TEST WHERE YOU'RE MEASURING AND COUNTING PARTICLES GENERALLY  
10:00AM 2 USING THE VIRUS'S NUCLEIC ACID TO MAKE THAT COUNTING PROCESS  
10:00AM 3 OCCUR.  
10:00AM 4 THE OTHER IS AN ANTIBODY TEST WHICH MEASURES WHETHER OR  
10:00AM 5 NOT SOMEBODY HAD BEEN EXPOSED TO HCV, AND THAT WOULD BE WHAT WE  
10:00AM 6 CALL AN ANTIBODY TEST.  
10:00AM 7 EDISONS ONLY RAN ANTIBODY TESTS. THIS PRECISELY DESCRIBES  
10:00AM 8 GENOTYPE AND LOAD IF YOU LOOK FURTHER DOWN ON THE EMAIL.  
10:00AM 9 SO, NO, IT DOES NOT REFER TO EDISONS.  
10:00AM 10 Q. AND YOU SEE MR. BALWANI'S EMAIL TO YOU, HE VIEWED THE  
10:00AM 11 TECHNOLOGY THAT YOU WERE DESCRIBING AND WORKING ON AT THERANOS  
10:00AM 12 AS THERANOS TRADE SECRET; CORRECT?  
10:00AM 13 MR. BOSTIC: OBJECTION. CALLS FOR SPECULATION.  
10:01AM 14 LACKS FOUNDATION.  
10:01AM 15 THE COURT: YOU'RE ASKING JUST WHAT THIS SAYS?  
10:01AM 16 MR. CAZARES: YES.  
10:01AM 17 THE WITNESS: CAN YOU REPEAT THE QUESTION, PLEASE?  
10:01AM 18 BY MR. CAZARES:  
10:01AM 19 Q. IN RESPONSE TO YOUR MESSAGE ON MAY 30, 2014, MR. BALWANI  
10:01AM 20 WROTE TO YOU THAT "THIS HCV SMALL VOLUME PROJECT IS THERANOS  
10:01AM 21 TRADE SECRET."  
10:01AM 22 DO YOU SEE THAT?  
10:01AM 23 A. I SEE THAT.  
10:01AM 24 Q. SO WHATEVER THE PROJECT WAS YOU WERE WORKING ON,  
10:01AM 25 MR. BALWANI VIEWED IT AS A THERANOS TRADE SECRET; CORRECT?

10:01AM 1 MR. BOSTIC: SAME OBJECTION.

10:01AM 2 THE COURT: SUSTAINED.

10:01AM 3 BY MR. CAZARES:

10:01AM 4 Q. YOU CAN SET THAT ASIDE.

10:01AM 5 DR. PANDORI, ON FRIDAY THERE WAS SOME DISCUSSION IN YOUR

10:01AM 6 DIRECT EXAM RELATING TO THE VIP DEMOS AND THE HANDLING OF

10:01AM 7 SAMPLES FROM DEMOS.

10:02AM 8 DO YOU RECALL THAT?

10:02AM 9 A. IT WAS FRIDAY? I RECALL THE CONVERSATION.

10:02AM 10 Q. AND YOU TESTIFIED RELATING TO THE HANDLING OF SAMPLES FROM

10:02AM 11 VIP DEMOS; CORRECT?

10:02AM 12 A. CORRECT.

10:02AM 13 Q. AND YOU TESTIFIED THAT MANAGEMENT, INCLUDING MR. BALWANI,

10:02AM 14 HAD INSTRUCTED THAT VIP SAMPLES WERE TO BE HANDLED QUICKLY;

10:02AM 15 CORRECT?

10:02AM 16 A. CORRECT.

10:02AM 17 Q. AND YOU TESTIFIED THAT THE PRACTICE RAISED SPIRITUAL

10:02AM 18 PROBLEMS FOR YOU BECAUSE TO EFFECT THAT, THE VIP SAMPLES WERE

10:02AM 19 KIND OF DROPPED TO THE FRONT OF THE LINE IN FRONT OF OTHER

10:02AM 20 PATIENT SAMPLES; CORRECT?

10:02AM 21 A. YES.

10:02AM 22 Q. IF YOU COULD TAKE A LOOK AT EXHIBIT 20255. 20555. I'M

10:02AM 23 SORRY, 20255. 20255. THAT'S IN VOLUME 1, THE ORIGINAL LARGE

10:02AM 24 VOLUME BINDER.

10:03AM 25 A. OKAY. I'VE FOUND IT.

10:03AM 1 Q. 20255 APPEARS TO BE A MESSAGE FROM MR. BALWANI TO YOURSELF  
10:03AM 2 AND TWO OTHER INDIVIDUALS?  
10:03AM 3 A. YES.  
10:03AM 4 Q. AND THOSE INDIVIDUALS ARE KIND OF THE PRODUCT MANAGERS, IF  
10:03AM 5 YOU WILL, AT THERANOS; CORRECT?  
10:03AM 6 A. YES.  
10:03AM 7 Q. AND THAT'S JANUARY 30, 2014?  
10:03AM 8 A. IT IS JANUARY 30TH, 2014.  
10:03AM 9 Q. AND THE SUBJECT LINE OF THE MESSAGE SAYS VIP SAMPLES.  
10:03AM 10 DO YOU SEE THAT?  
10:03AM 11 A. YES.  
10:03AM 12 Q. AND THIS APPEARS TO BE RELATING TO THIS HANDLING OF  
10:03AM 13 SAMPLES FROM VIP DEMOS THAT YOU DISCUSSED IN YOUR TESTIMONY;  
10:03AM 14 CORRECT?  
10:03AM 15 A. IT'S REFERRING TO VIP SAMPLES, CORRECT.  
10:03AM 16 Q. OKAY.  
10:03AM 17 YOUR HONOR, MOVE TO ADMIT 20255 SUBJECT TO THE PARTIES'  
10:03AM 18 EMAIL STIPULATION.  
10:03AM 19 MR. BOSTIC: NO OBJECTION.  
10:03AM 20 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.  
10:04AM 21 (DEFENDANT'S EXHIBIT 20255 WAS RECEIVED IN EVIDENCE.)  
10:04AM 22 BY MR. CAZARES:  
10:04AM 23 Q. AS YOU CAN SEE UP ON THE SCREEN, DR. PANDORI, THE MESSAGE  
10:04AM 24 IS FROM MR. BALWANI TO YOURSELF, MAX FOSQUE, AND  
10:04AM 25 NICHOLAS MENCHEL.

10:04AM 1 DO YOU SEE THAT?

10:04AM 2 A. I DO.

10:04AM 3 Q. AND SUBJECT LINE IS VIP SAMPLES.

10:04AM 4 DO YOU SEE THAT?

10:04AM 5 A. YES.

10:04AM 6 Q. AND IN THE MESSAGE TO YOU, MR. BALWANI WROTE, "PLEASE KNOW

10:04AM 7 THAT THERE IS A VERY HIGH LIKELIHOOD THAT WE HAD MORE VIP'S

10:04AM 8 YESTERDAY AND TODAY AND ALL WEEKEND AND MONDAY THAT WILL VISIT

10:04AM 9 OUR WAG PSC'S."

10:04AM 10 DO YOU SEE THAT?

10:04AM 11 A. YES.

10:04AM 12 Q. AND WAG PSC'S, THOSE ARE THE PATIENT SERVICE CENTERS WHERE

10:04AM 13 SAMPLES WERE COLLECTED; CORRECT?

10:04AM 14 A. I THINK SO.

10:04AM 15 Q. AND THEN THOSE SAMPLES WOULD BE TRANSPORTED OR SHIPPED TO

10:04AM 16 THE LAB IF NECESSARY; CORRECT?

10:04AM 17 A. CORRECT.

10:04AM 18 Q. AND MR. BALWANI WROTE IN THE MESSAGE TO YOURSELF, "THOUGH

10:04AM 19 ALL SAMPLES SHD RECEIVE SAME TREATMENT, GIVEN INCIDENTS OVER

10:05AM 20 LAST 2 DAYS, I WOULD LIKE EVERYONE PAYING SPECIAL ATTENTION FOR

10:05AM 21 NEXT WEEK UNTIL OUR PROCESS IS PERFECT."

10:05AM 22 DO YOU SEE THAT?

10:05AM 23 A. YES.

10:05AM 24 Q. SO MR. BALWANI IS TELLING YOU TO TREAT THE VIP SAMPLES THE

10:05AM 25 SAME AS OTHER SAMPLES; CORRECT?

10:05AM 1 A. CORRECT.

10:05AM 2 Q. BUT HE'S NOT ASKING FOR PREFERENTIAL TREATMENT IN THIS

10:05AM 3 MESSAGE FOR THE VIP'S; CORRECT?

10:05AM 4 A. WELL, HE'S SAYING THAT ALL OF THE VIP SAMPLES SHOULD

10:05AM 5 RECEIVE THE SAME TREATMENT, SO THAT ALL OF THE -- WHAT IT SAYS

10:05AM 6 IS THAT ALL OF THE VIP SAMPLES, ASSUMING SHD MEANS SHOULD, ALL

10:05AM 7 SAMPLES SHOULD RECEIVE THE SAME TREATMENT.

10:05AM 8 Q. THE WALGREENS PATIENT SERVICE CENTERS ARE WHERE ALL

10:05AM 9 PATIENT SAMPLES WERE COLLECTED; CORRECT?

10:05AM 10 A. YES.

10:05AM 11 Q. YOU CAN SET THAT ASIDE.

10:06AM 12 IN YOUR TESTIMONY IN RESPONSE TO QUESTIONS FROM THE

10:06AM 13 GOVERNMENT, YOU DISCUSSED AND MENTIONED THE FACT THAT YOU WERE

10:06AM 14 ASKED TO REVIEW VALIDATION REPORTS FOR OTHER TESTING DONE IN

10:06AM 15 THE RESEARCH AND DEVELOPMENT PORTION OF THERANOS; CORRECT?

10:06AM 16 A. CORRECT.

10:06AM 17 Q. AND THAT RELATED TO THIS NUCLEIC ACID AMPLIFICATION

10:06AM 18 DEVELOPMENT; CORRECT?

10:06AM 19 A. CORRECT.

10:06AM 20 Q. AND AS A PART OF THAT YOU HAD REGULAR COMMUNICATIONS, OR

10:06AM 21 COMMUNICATIONS WITH DR. PRANAV PATEL WHO WAS THE HEAD OF THE

10:06AM 22 NUCLEIC ACID AMPLIFICATION TEAM?

10:06AM 23 A. I DID.

10:06AM 24 Q. AND AS A PART OF THOSE DISCUSSION, DR. PATEL SHARED WITH

10:06AM 25 YOU VALIDATION REPORTS, OR DRAFT VALIDATION REPORTS; CORRECT?

10:06AM 1 A. CORRECT.

10:06AM 2 Q. AND IN ADDITION TO DR. PATEL, THERE WERE OTHER TEAMS AT

10:06AM 3 THERANOS DEVELOPING NEW TESTS; CORRECT?

10:06AM 4 A. I BELIEVE SO.

10:06AM 5 Q. YOU'RE FAMILIAR WITH AN INDIVIDUAL NAMED DR. PAUL PATEL?

10:06AM 6 A. YES.

10:06AM 7 Q. AND DR. PAUL PATEL, AGAIN, HEADED ANOTHER ONE OF THESE

10:07AM 8 TEAMS DEVELOPING TESTS WITHIN THE RESEARCH AND DEVELOPMENT

10:07AM 9 PORTION OF THE COMPANY; CORRECT?

10:07AM 10 A. MY RECOLLECTION IS THAT PAUL PATEL WORKED IN A SECTION

10:07AM 11 CALLED CHEMISTRY. I DON'T KNOW IF HE WAS DEVELOPING NEW TESTS

10:07AM 12 OR MANAGING EXISTING ONES.

10:07AM 13 Q. GENERAL CHEMISTRY WAS HIS DEPARTMENT; CORRECT?

10:07AM 14 A. I JUST CALLED IT CHEMISTRY.

10:07AM 15 Q. AND YOU'RE FAMILIAR WITH ANOTHER INDIVIDUAL NAMED

10:07AM 16 DR. CHINMAY PANGARKAR AS WELL; CORRECT?

10:07AM 17 A. I RECOGNIZE THE FIRST NAME.

10:07AM 18 Q. AND THERE WAS A TEAM AT THERANOS DEVELOPING ASSAYS

10:07AM 19 RELATING TO CYTOMETRY TESTING; CORRECT?

10:07AM 20 A. CORRECT.

10:07AM 21 Q. AND YOU'RE FAMILIAR WITH DR. SHARADA SIVARAMAN; CORRECT?

10:07AM 22 A. NO.

10:07AM 23 Q. AND YOU'RE FAMILIAR WITH A TEAM IN THERANOS'S RESEARCH AND

10:07AM 24 DEVELOPMENT LAB THAT WERE DEVELOPING ADDITIONAL TESTS RELATING

10:07AM 25 TO THE IMMUNOASSAYS FOR THE EDISON AND OTHER DEVICES; CORRECT?

10:07AM 1 A. I HAD A SENSE THAT WAS GOING ON, BUT I CAN'T RECALL  
10:07AM 2 ANYONE'S NAME THAT PARTICIPATED IN THAT.  
10:07AM 3 Q. DR. PANDORI, IF YOU CAN TAKE A LOOK AT EXHIBIT 20461,  
10:08AM 4 20461. THAT SHOULD BE IN VOLUME 2.  
10:08AM 5 A. OKAY. I'M THERE.  
10:08AM 6 Q. 20461 APPEARS TO BE AN EMAIL DATED DECEMBER 11TH, 2013.  
10:08AM 7 DO YOU SEE THAT?  
10:08AM 8 A. YES.  
10:08AM 9 Q. FROM DR. PATEL, PRANAV PATEL?  
10:08AM 10 A. YES.  
10:08AM 11 Q. TO YOURSELF?  
10:08AM 12 A. YES.  
10:08AM 13 Q. WITH A SUBJECT MATTER TNAA LDT VALIDATION REPORT.  
10:08AM 14 DO YOU SEE THAT?  
10:08AM 15 A. YES.  
10:08AM 16 Q. AND THEN THERE ARE SOME ATTACHMENTS TO THE DOCUMENT?  
10:09AM 17 A. I'M LOOKING AT IT.  
10:09AM 18 Q. OKAY. DRAFT VALIDATION REPORTS?  
10:09AM 19 A. THAT'S WHAT THE TITLE IS, YES.  
10:09AM 20 Q. AND YOU HAD COMMUNICATIONS WITH DR. PATEL RELATING TO YOUR  
10:09AM 21 REVIEW OF DRAFT VALIDATION REPORTS; CORRECT?  
10:09AM 22 A. CORRECT.  
10:09AM 23 MR. CAZARES: MOVE TO ADMIT 20461.  
10:09AM 24 MR. BOSTIC: 401.  
10:09AM 25 THE COURT: YOU'RE ASKING THAT THE ENTIRETY OF THE

10:09AM 1 EXHIBIT COME IN?

10:09AM 2 MR. CAZARES: IT'S NOT MY INTENT TO REVIEW THE

10:09AM 3 ENTIRETY OF THE ATTACHMENTS, YOUR HONOR, BUT TO ASK A FEW

10:09AM 4 QUESTIONS.

10:09AM 5 THE COURT: BUT YOU WANT THE JURY TO RECEIVE THIS

10:10AM 6 STACK?

10:10AM 7 MR. CAZARES: YES, YOUR HONOR.

10:10AM 8 THE COURT: IT'S ADMITTED AND IT MAY BE PUBLISHED.

10:10AM 9 (DEFENDANT'S EXHIBIT 20461 WAS RECEIVED IN EVIDENCE.)

10:10AM 10 BY MR. CAZARES:

10:10AM 11 Q. REFERRING TO THE FIRST PAGE, IT'S EXHIBIT 20461, AND IT'S

10:10AM 12 AN EMAIL ON DECEMBER 11TH, 2013?

10:10AM 13 DO YOU SEE THAT?

10:10AM 14 A. I DO.

10:10AM 15 Q. AND AGAIN, THIS IS FROM DR. PATEL TO YOU?

10:10AM 16 A. YES.

10:10AM 17 Q. AND SUBJECT LINE IS TNAA LDT VALIDATION REPORTS.

10:10AM 18 DO YOU SEE THAT?

10:10AM 19 A. I DO.

10:10AM 20 Q. AND TNAA, FOR THE JURY, MEANS THERANOS'S NUCLEIC ACID

10:10AM 21 AMPLIFICATION TEST; CORRECT?

10:10AM 22 A. I THINK SO.

10:10AM 23 Q. AND LDT REFERS TO LAB DEVELOPED TESTS, MEANING THERANOS'S

10:10AM 24 PROPRIETARY TESTING; CORRECT?

10:10AM 25 A. LDT IS A TERMINOLOGY MEANING LABORATORY DEVELOPED TESTS,

10:10AM 1 AND WHAT IT REFERS TO IS A SITUATION WHERE A LAB BUILDS THEIR  
10:11AM 2 OWN LABORATORY TESTS BECAUSE OF A NEED EITHER BECAUSE THERE'S  
10:11AM 3 NO FDA CLEARED OPTION OR THERE'S A VERY SPECIFIC REASON WHY  
10:11AM 4 THEY CANNOT RUN A FDA CLEARED OPTION.

10:11AM 5 SO THE LAB DEVELOPS A TEST AND IT'S CALLED AN LDT.

10:11AM 6 BEFORE AN LDT CAN BE UTILIZED DIAGNOSTICALLY OR  
10:11AM 7 MEDICALLY --

10:11AM 8 MR. CAZARES: YOUR HONOR, MOVE TO STRIKE. THERE'S  
10:11AM 9 NO QUESTION PENDING AND I HAVEN'T ASKED ALL OF THIS  
10:11AM 10 INFORMATION.

10:11AM 11 THE COURT: I'M NOT GOING TO STRIKE IT. BUT YOU CAN  
10:11AM 12 ASK ANOTHER QUESTION NOW.

10:11AM 13 MR. CAZARES: UNDERSTOOD, YOUR HONOR.

10:11AM 14 Q. DR. PANDORI, IF YOU CAN TURN TO PAGE 3 OF THE EXHIBIT.

10:11AM 15 A. PAGE 3, YES.

10:11AM 16 Q. AND PAGE 3 APPEARS TO BE A DRAFT VALIDATION REPORT DATED  
10:11AM 17 NOVEMBER 27, 2013.

10:11AM 18 DO YOU SEE THAT?

10:11AM 19 A. YES.

10:11AM 20 Q. AND THIS TEST IS TITLED BORDETELLA PARAPERTUSSIS TNAA  
10:11AM 21 VALIDATION REPORT.

10:11AM 22 DO YOU SEE THAT?

10:11AM 23 A. YES.

10:11AM 24 Q. AND THIS IS AMONG THE DRAFT VALIDATION REPORTS THAT YOU  
10:12AM 25 REVIEWED DURING YOUR TIME AT THERANOS?

10:12AM 1 A. TO BE FRANK, I DON'T RECALL THIS ONE IN PARTICULAR, BUT  
10:12AM 2 THERE WERE A FEW OF THEM, IF NOT MANY.  
10:12AM 3 Q. SO YOU DO RECALL DRAFTING VALIDATION REPORTS, YOU'RE NOT  
10:12AM 4 JUST SURE IF THIS WAS ONE OF THEM?  
10:12AM 5 A. NO, I DIDN'T DRAFT THEM. I REVIEWED THOSE THAT WERE  
10:12AM 6 DRAFTED BY OTHERS.  
10:12AM 7 Q. AND YOU PROVIDED COMMENTS TO THE DRAFTERS?  
10:12AM 8 A. YES.  
10:12AM 9 Q. AND YOU VIEWED THE DRAFT VALIDATION REPORTS POSITIVELY;  
10:12AM 10 CORRECT?  
10:12AM 11 A. I DON'T RECALL THE INDIVIDUAL REVIEW OF EVERY REPORT.  
10:12AM 12 Q. BUT YOU HAD POSITIVE THOUGHTS ABOUT MANY OF THEM; CORRECT?  
10:12AM 13 A. I RECALL THAT THERE WERE -- THAT IT LOOKED LIKE IT WAS ON  
10:12AM 14 THE RIGHT TRACK AND IT WAS AN EXCITING LINE OF POSSIBLE  
10:12AM 15 TECHNOLOGY.  
10:12AM 16 Q. AND THIS WAS POSSIBLE USE OF THERANOS'S TECHNOLOGY IN THE  
10:12AM 17 FUTURE; CORRECT?  
10:12AM 18 A. CORRECT, IT WAS POSSIBLE.  
10:12AM 19 Q. IT WASN'T BEING USED IN THE CLINICAL LAB AT THE TIME?  
10:12AM 20 A. CORRECT.  
10:12AM 21 Q. YOU CAN SET THAT ASIDE.  
10:12AM 22 IF YOU COULD TAKE A LOOK AT 20444. IT SHOULD ALSO BE IN  
10:13AM 23 THAT SMALLER BINDER AGAIN.  
10:13AM 24 A. I'M SORRY. WHAT WAS THE NUMBER AGAIN?  
10:13AM 25 Q. 20444.

10:13AM 1 A. OH, YEAH, IT'S IN VOLUME 2.

10:13AM 2 ALL RIGHT. I'M THERE.

10:13AM 3 Q. 20444 APPEARS TO BE AN EMAIL DATED 12/13/2013.

10:13AM 4 DO YOU SEE THAT?

10:13AM 5 A. YES.

10:13AM 6 Q. FROM YOURSELF TO DR. PATEL?

10:13AM 7 A. YES.

10:13AM 8 Q. AND THE SUBJECT LINE SAYS NAAT VALIDATION.

10:13AM 9 DO YOU SEE THAT?

10:13AM 10 A. YES.

10:13AM 11 MR. CAZARES: YOUR HONOR, MOVE TO ADMIT 20444

10:13AM 12 PURSUANT TO THE PARTIES' STIPULATIONS REGARDING EMAILS.

10:14AM 13 MR. BOSTIC: NO OBJECTION.

10:14AM 14 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

10:14AM 15 (DEFENDANT'S EXHIBIT 20444 WAS RECEIVED IN EVIDENCE.)

10:14AM 16 BY MR. CAZARES:

10:14AM 17 Q. AGAIN TO ORIENT THE JURY, WE'RE LOOKING AT A

10:14AM 18 DECEMBER 13TH, 2013, EMAIL FROM YOURSELF TO DR. PATEL?

10:14AM 19 A. IT IS.

10:14AM 20 Q. AND THIS IS RELATING TO NAAT VALIDATIONS.

10:14AM 21 DO YOU SEE THAT?

10:14AM 22 A. YES.

10:14AM 23 Q. AND THAT'S THIS NUCLEIC ACID AMPLIFICATION VALIDATION

10:14AM 24 TESTS; CORRECT?

10:14AM 25 A. VERY LIKELY.

10:14AM 1 Q. AND CONTINUING WITH THE MESSAGE YOU START TO DR. PATEL,  
10:14AM 2 "PRANAV, ADAM," BECAUSE DR. ROSENDORFF IS ALSO COPIED ON THE  
10:14AM 3 MESSAGE, "I BELIEVE THAT WITH REGARD TO THE IDEA OF USING A  
10:14AM 4 COMPARATOR METHOD, ONLY CERTAIN TESTS WILL REQUIRE THIS."  
10:14AM 5 DO YOU SEE THAT?  
10:14AM 6 A. YES.  
10:14AM 7 Q. "FOR MANY OF THE ANALYTES, WE CAN ARGUE VERY WELL THAT  
10:14AM 8 THERE IS NO FDA APPROVED MOLECULAR COMPARATOR METHOD."  
10:14AM 9 DO YOU SEE THAT?  
10:14AM 10 A. YES.  
10:14AM 11 Q. AND THAT'S WHAT YOU WROTE?  
10:15AM 12 A. CORRECT.  
10:15AM 13 Q. AND THEN YOU FOLLOW, "AN INSPECTOR COULD ARGUE THAT WE  
10:15AM 14 COULD HAVE USED CULTURE AS THE GOLD STANDARD. HOWEVER, I  
10:15AM 15 BELIEVE THAT STRONG ARGUMENTS COULD BE MADE THAT WHAT YOU DID  
10:15AM 16 WITH PCR WAS A BETTER COMPARATOR FOR THE TEST, SINCE IT IS WELL  
10:15AM 17 ESTABLISHED THAT PCR IS MORE SENSITIVE THAN CULTURE FOR THE  
10:15AM 18 VAST MAJORITY OF CASES."  
10:15AM 19 CORRECT?  
10:15AM 20 A. CORRECT.  
10:15AM 21 Q. SO ESSENTIALLY IN THIS MESSAGE YOU'RE PROVIDING COMMENTS  
10:15AM 22 TO DR. PATEL RELATING TO THESE TNAA VALIDATION REPORTS;  
10:15AM 23 CORRECT?  
10:15AM 24 A. CORRECT.  
10:15AM 25 Q. AND SO BY THIS TIME YOU HAD ALREADY REVIEWED AT LEAST SOME

10:15AM 1 REPORTS; CORRECT?

10:15AM 2 A. CORRECT.

10:15AM 3 Q. IF WE CAN TURN TO THE SECOND PAGE, ITEM NUMBER 8, IT

10:15AM 4 APPEARS THAT YOU WROTE, "IN TWO OCCASIONS, AT LEAST, WHERE I

10:15AM 5 HAVE BEEN INSPECTED BY CLIA AND VALIDATIONS WERE REVIEWED, THE

10:15AM 6 INSPECTORS ASKED US TO HAVE A CONCLUDING STATEMENT THAT

10:16AM 7 INDICATED THAT THE LABORATORY HAS DETERMINED THAT BASED UPON

10:16AM 8 THE DATA, THAT THE TEST IS SAFE AND EFFECTIVE FOR USE WITH

10:16AM 9 HUMAN BEINGS/PATIENTS."

10:16AM 10 DO YOU SEE THAT?

10:16AM 11 A. I DO SEE IT.

10:16AM 12 Q. AND THEN YOU CONTINUED, "THESE VALIDATIONS ARE EXCELLENT,

10:16AM 13 BUT THEY ARE MISSING THIS ELEMENT."

10:16AM 14 THOSE ARE YOUR WORDS; CORRECT?

10:16AM 15 A. CORRECT.

10:16AM 16 Q. AND YOU DESCRIBED THE REPORTS AS EXCELLENT BUT MISSING

10:16AM 17 THIS PIECE; CORRECT?

10:16AM 18 A. CORRECT.

10:16AM 19 Q. AND "THE INTRO SHOULD STATE THAT THE GOAL WAS TO DETERMINE

10:16AM 20 IF THE TEST WAS SAFE FOR USE ON PEOPLE, AND THE CONCLUSION

10:16AM 21 SHOULD STATE THAT THE TEST IS SAFE FOR PEOPLE."

10:16AM 22 THOSE ARE YOUR WORDS?

10:16AM 23 A. YES, THOSE ARE MY WORDS.

10:16AM 24 Q. AND THAT'S AFTER REVIEWING THERANOS'S DRAFT VALIDATION

10:16AM 25 REPORTS FOR SOME OF THESE TNAA ASSAYS; CORRECT?

10:16AM 1 A. CORRECT.

10:16AM 2 Q. YOU CAN SET THAT ASIDE.

10:17AM 3 AND IF YOU CAN TAKE A LOOK AT 20460.

10:17AM 4 A. OKAY, I'M THERE.

10:17AM 5 Q. 20460 AT THE TOP OF THE PAGE, THE LATTER OF THE MESSAGES

10:17AM 6 IN THE CHAIN APPEARS TO BE DATED DECEMBER 14TH, 2013.

10:17AM 7 DO YOU SEE THAT?

10:17AM 8 A. YES.

10:17AM 9 Q. AND FROM DR. PATEL TO YOURSELF?

10:17AM 10 A. YES.

10:17AM 11 Q. WITH A COPY TO DANIEL YOUNG?

10:17AM 12 A. I SEE IT.

10:17AM 13 Q. AND THE SUBJECT LINE SAYS, RE B. PARAPERTUSSI VALID.SUGG?

10:17AM 14 A. I SEE IT.

10:17AM 15 Q. AND THEN THIS APPEARS TO BE AN EMAIL CHAIN BACK AND FORTH

10:17AM 16 RESPONSES BETWEEN YOURSELF AND DR. PATEL.

10:17AM 17 DO YOU SEE THAT?

10:17AM 18 A. YES.

10:17AM 19 Q. AND THIS RELATES AGAIN TO YOUR REVIEW OF THESE VALIDATION

10:17AM 20 REPORTS RELATING TO THERANOS'S NUCLEIC ACID AMPLIFICATION

10:18AM 21 TESTS; CORRECT?

10:18AM 22 A. THEY'RE REFERRING TO ONE SPECIFIC ASSAY, NOT ALL TNAA.

10:18AM 23 MR. CAZARES: MOVE TO ADMIT 20460, YOUR HONOR.

10:18AM 24 MR. BOSTIC: NO OBJECTION.

10:18AM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:18AM 1 (DEFENDANT'S EXHIBIT 20460 WAS RECEIVED IN EVIDENCE.)

10:18AM 2 BY MR. CAZARES:

10:18AM 3 Q. AND FOCUSING OUR ATTENTION TO BE PAGE 2 OF THE EXHIBIT.

10:18AM 4 ON PAGE 2 AT THE TOP, THERE APPEARS TO BE A MESSAGE FROM

10:18AM 5 YOURSELF TO DR. PATEL COPIED TO DR. YOUNG.

10:18AM 6 DO YOU SEE THAT?

10:18AM 7 A. I DO.

10:18AM 8 Q. DECEMBER 14TH, 2013.

10:18AM 9 DO YOU SEE THAT?

10:18AM 10 A. OH, YEAH, IT WAS RIGHT AFTER I STARTED.

10:18AM 11 Q. IN YOUR MESSAGE YOU WROTE, "PRANAV,

10:18AM 12 "I'VE GONE THROUGH WHAT YOU SENT ME BACK. I WILL GO

10:18AM 13 THROUGH EVERY VALIDATION IN DETAIL, LIKE THIS, IF THE COMPANY

10:18AM 14 DEEMS THIS TO BE OF USE. I REALLY THINK THESE ARE SOLID."

10:18AM 15 THOSE ARE YOUR WORDS; CORRECT?

10:18AM 16 A. YES.

10:18AM 17 Q. "BUT WITH SOME TWEAKING, THEY WOULD BECOME WELL REFERENCED

10:19AM 18 DOCUMENTS, AIR-TIGHT AGAINST INSPECTION."

10:19AM 19 THOSE ARE YOUR WORDS; CORRECT?

10:19AM 20 A. CORRECT.

10:19AM 21 Q. "ALSO, I'D LOVE TO LEARN THE TNAA, AND EVEN RUN IT AT SOME

10:19AM 22 POINT -- I WOULD LIKE TO HELP WITH THESE VALIDATIONS AT ALL

10:19AM 23 LEVELS."

10:19AM 24 THOSE ARE YOUR WORDS?

10:19AM 25 A. YES.

10:19AM 1 Q. AND YOU HAD REVIEWED AT LEAST SOME OF THE VALIDATION  
10:19AM 2 REPORTS BY DECEMBER 2013; CORRECT?  
10:19AM 3 A. I DON'T KNOW HOW MANY.  
10:19AM 4 Q. BUT YOU DID REVIEW SOME?  
10:19AM 5 A. I BELIEVE SO, YES.  
10:19AM 6 Q. AND THAT'S WHAT IS REFLECTED IN THE MESSAGE; CORRECT?  
10:19AM 7 A. CORRECT.  
10:19AM 8 Q. IF YOU COULD TAKE A LOOK AT EXHIBIT 20456.  
10:19AM 9 A. OKAY.  
10:19AM 10 Q. 20456 APPEARS TO BE A MESSAGE FROM -- OR DATED JANUARY 11,  
10:20AM 11 2014.  
10:20AM 12 DO YOU SEE THAT?  
10:20AM 13 A. YES.  
10:20AM 14 Q. FROM YOURSELF TO MR. BALWANI?  
10:20AM 15 A. YES.  
10:20AM 16 Q. THE SUBJECT LINE EDISONS, ET AL.  
10:20AM 17 DO YOU SEE THAT?  
10:20AM 18 A. YES.  
10:20AM 19 Q. AND TAKE A LOOK AT THE MESSAGE AND SEE IF IT REFRESHES  
10:20AM 20 YOUR RECOLLECTION ABOUT THE DISCUSSION.  
10:20AM 21 A. YES, IT APPEARS TO BE A REVIEW OF THINGS THAT I HAD BEEN  
10:20AM 22 DOING UP UNTIL JANUARY 11TH.  
10:20AM 23 Q. AND IT WAS YOUR REGULAR PRACTICE TO COMMUNICATE WITH EMAIL  
10:20AM 24 BOTH WITH MR. BALWANI AS WELL AS OTHERS AT THERANOS?  
10:20AM 25 A. CORRECT.

10:20AM 1 Q. AND YOU DID YOUR BEST TO COMMUNICATE ACCURATELY THE ISSUES  
10:20AM 2 AND EVENTS THAT YOU WERE DEALING WITH IN THE LAB?  
10:20AM 3 A. YEAH, I WAS EAGER TO MAKE CLEAR THAT I WAS DOING MY JOB.  
10:21AM 4 MR. CAZARES: OKAY. MOVE TO ADMIT 20456,  
10:21AM 5 YOUR HONOR.  
10:21AM 6 MR. BOSTIC: IS THIS COMING IN AS A BUSINESS RECORD?  
10:21AM 7 THE COURT: I WOULD THINK THAT'S THE BASIS FOR THE  
10:21AM 8 ADMISSION.  
10:21AM 9 MR. CAZARES: YES, YOUR HONOR.  
10:21AM 10 MR. BOSTIC: NO OBJECTION.  
10:21AM 11 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.  
10:21AM 12 (DEFENDANT'S EXHIBIT 20456 WAS RECEIVED IN EVIDENCE.)  
10:21AM 13 BY MR. CAZARES:  
10:21AM 14 Q. AND STARTING AT THE TOP OF THE MESSAGE, AGAIN, DATED  
10:21AM 15 JANUARY 11TH, 2014, FROM YOURSELF TO MR. BALWANI.  
10:21AM 16 DO YOU SEE THAT?  
10:21AM 17 A. YES.  
10:21AM 18 Q. AND THE SUBJECT LINE IS EDISONS ET AL.  
10:21AM 19 A. YES.  
10:21AM 20 Q. AND YOU WROTE, "SUNNY,  
10:21AM 21 "I MET WITH SURAJ AND WE DISCUSSED THE 'GO LIVE' AND  
10:21AM 22 VALIDATION ASSOCIATED TOPICS FOR THE EDISON IMMUNOASSAYS."  
10:21AM 23 DO YOU SEE THAT?  
10:21AM 24 A. YES.  
10:21AM 25 Q. AND YOU WROTE, "I WILL WORK WITH HIM, IN MUCH THE SAME

10:21AM 1 CAPACITY AS I AM WORKING WITH PRANAV, TO GET THESE CLIA READY.

10:21AM 2 I HAVE TO SAY, THAT ONE OF THE THINGS I AM REALLY ENJOYING

10:21AM 3 ABOUT BEING HERE IS THE CALIBER OF INDIVIDUALS THAT ARE WORKING

10:21AM 4 HERE."

10:22AM 5 DO YOU SEE THAT?

10:22AM 6 A. YES.

10:22AM 7 Q. AND THOSE WERE YOUR THOUGHTS AT THE TIME; CORRECT?

10:22AM 8 A. CORRECT.

10:22AM 9 Q. "YOU TOLD ME A WHILE BACK, 'WE WILL NOT FAIL,' AND I HAVE

10:22AM 10 TO SAY, WITH PEOPLE LIKE THIS, I HAVE NO DOUBT."

10:22AM 11 THOSE WERE YOUR WORDS; CORRECT?

10:22AM 12 A. CORRECT.

10:22AM 13 Q. THE MESSAGE CONTINUES FURTHER DOWN NEAR THE BOTTOM. YOU

10:22AM 14 WROTE, "SOUNDS CORNY, BUT I ALREADY THINK WE'RE MAKING IN-ROADS

10:22AM 15 TOWARDS STAFF MORALE AND CULTURE IN CLIA; DON'T WANT TO

10:22AM 16 OVERPROMISE ANYTHING; BUT.. THIS IS AN EXCELLENT GROUP POISED

10:22AM 17 TO DO GREAT WORK, AND I'M LETTING THEM KNOW THIS."

10:22AM 18 CORRECT?

10:22AM 19 A. YES.

10:22AM 20 Q. AND THOSE ARE YOUR WORDS TO MR. BALWANI; CORRECT?

10:22AM 21 A. YES.

10:22AM 22 Q. YOU CAN SET THAT ASIDE.

10:23AM 23 THE COURT: FOLKS, WHY DON'T YOU TAKE A STANDING

10:23AM 24 BREAK HERE AND STRETCH FOR A MINUTE WHILE THE NEXT EXHIBIT IS

10:23AM 25 BEING SOUGHT.

10:23AM 1 (STRETCHING.)

10:23AM 2 THE COURT: THANK YOU.

10:23AM 3 COUNSEL.

10:23AM 4 MR. CAZARES: THANK YOU.

10:23AM 5 Q. DR. PANDORI, IF YOU CAN TAKE A LOOK AT EXHIBIT 20265.

10:23AM 6 20265.

10:23AM 7 A. I'M THERE.

10:23AM 8 Q. AND 20265 APPEARS TO BE AN EMAIL BETWEEN YOURSELF AND

10:24AM 9 MR. BALWANI.

10:24AM 10 DO YOU SEE THAT?

10:24AM 11 A. YES.

10:24AM 12 Q. DATED MARCH 17TH, 2014?

10:24AM 13 A. MARCH 18TH.

10:24AM 14 Q. 18TH. I APOLOGIZE. 2014? 2014?

10:24AM 15 A. OH, YES.

10:24AM 16 MR. CAZARES: YOUR HONOR, MOVE TO ADMIT PURSUANT TO

10:24AM 17 THE PARTIES' STIP REGARDING EMAILS.

10:24AM 18 MR. BOSTIC: NO OBJECTION.

10:24AM 19 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:24AM 20 (DEFENDANT'S EXHIBIT 20265 WAS RECEIVED IN EVIDENCE.)

10:24AM 21 BY MR. CAZARES:

10:24AM 22 Q. AND YOU CAN ALSO SEE THE MESSAGE UP ON TOP OF THE SCREEN,

10:24AM 23 DR. PANDORI, IF IT'S EASIER.

10:24AM 24 A. EITHER WAY.

10:24AM 25 Q. LOOKING AT THE TOP OF THE CHAIN, AGAIN, THE LATTER OF THE

10:24AM 1 MESSAGES APPEAR TO BE FROM MR. BALWANI TO YOURSELF COPYING  
10:24AM 2 DANIEL YOUNG.  
10:24AM 3 DO YOU SEE THAT?  
10:24AM 4 A. YES.  
10:24AM 5 Q. AND IT'S DATED MARCH 18TH, AS YOU SAID, 2014; CORRECT?  
10:24AM 6 A. CORRECT.  
10:24AM 7 Q. AND THE SUBJECT LINE SAYS RE: PA.  
10:25AM 8 DO YOU SEE THAT?  
10:25AM 9 A. YES.  
10:25AM 10 Q. AND THEN IF WE SCROLL DOWN TO THE EARLIER OF THE MESSAGES  
10:25AM 11 IN THE CHAIN --  
10:25AM 12 A. HOW FAR DOWN WOULD YOU LIKE ME TO GO?  
10:25AM 13 Q. START FROM THE BOTTOM.  
10:25AM 14 THE FIRST MESSAGE IN THE CHAIN APPEARS TO BE FROM  
10:25AM 15 MR. BALWANI TO YOURSELF MARCH 17TH, 2014; CORRECT?  
10:25AM 16 A. YES.  
10:25AM 17 Q. AND IN THE SUBJECT AGAIN IT'S PA.  
10:25AM 18 AND MR. BALWANI ASKS YOU, "ARE YOU QUALIFIED TO BE LAB  
10:25AM 19 DIRECTOR IN PENNSYLVANIA?"  
10:25AM 20 DO YOU SEE THAT?  
10:25AM 21 A. YES.  
10:25AM 22 Q. AND THIS IS MARCH 17TH OF 2014. YOU RECEIVED -- YOU  
10:25AM 23 TESTIFIED ON FRIDAY THAT THE "WIRED" ARTICLE THAT REFLECTED AN  
10:25AM 24 INTERVIEW BY MS. HOLMES WAS A CATALYST UPON YOUR LEAVING  
10:25AM 25 THERANOS; CORRECT?

10:25AM 1 A. CORRECT.

10:25AM 2 Q. BECAUSE OF REPRESENTATIONS IN THE ARTICLE.

10:26AM 3 THAT'S WHAT YOU TESTIFIED TO; CORRECT?

10:26AM 4 A. CORRECT.

10:26AM 5 Q. AND YOU RECEIVED THAT ARTICLE IN FEBRUARY OF 2014;

10:26AM 6 CORRECT?

10:26AM 7 A. YEAH.

10:26AM 8 I DON'T REMEMBER THE DATE EXACTLY.

10:26AM 9 Q. YOU RECEIVED THE ARTICLE BEFORE MR. BALWANI WAS RAISING

10:26AM 10 THE ISSUE TO YOU ON MARCH 17TH, 2014, ABOUT BECOMING A LAB

10:26AM 11 DIRECTOR IN PENNSYLVANIA FOR THERANOS; CORRECT?

10:26AM 12 A. WELL, I DON'T KNOW WHAT YOU MEAN BY "RECEIVED THE

10:26AM 13 ARTICLE."

10:26AM 14 Q. YOU RECEIVED THE ARTICLE IN FEBRUARY OF 2014; CORRECT?

10:26AM 15 MR. BOSTIC: ASKED AND ANSWERED.

10:26AM 16 THE COURT: SUSTAINED.

10:26AM 17 BY MR. CAZARES:

10:26AM 18 Q. LET'S CONTINUE WITH THE EXHIBIT.

10:26AM 19 YOU RESPONDED TO MR. BALWANI ON MARCH 17TH, 2014, "SUNNY,

10:26AM 20 "FROM WHAT I HAVE FOUND, YES, I AM QUALIFIED. THEY MAY

10:26AM 21 ASK ME TO TAKE AN EXAM, BUT ACCORDING TO THIS, I QUALIFY."

10:26AM 22 AND THEN IT LOOKS LIKE YOU REFERENCED A WEBSITE OF SOME

10:26AM 23 SORT; CORRECT?

10:26AM 24 A. CORRECT.

10:26AM 25 Q. AND YOU DIDN'T SAY TO MR. BALWANI, NO, I HAVE NO INTEREST

10:27AM 1 IN BEING A LAB DIRECTOR FOR THERANOS; CORRECT?

10:27AM 2 A. CORRECT.

10:27AM 3 Q. AND IF WE CONTINUE WITH THE EXHIBIT, MR. BALWANI RESPONDED

10:27AM 4 TO YOU, AGAIN MARCH 17TH, 2014, "OK. WE MAY NEED TO OPEN A LAB

10:27AM 5 THERE -- SIMILAR TO WHAT WE HAVE HERE AT 1601 (CLUNKERS AND

10:27AM 6 NORMANDY) OR INITIALLY ALL CLUNKERS AND THEN NORMANDY. FYI."

10:27AM 7 DO YOU SEE THAT?

10:27AM 8 A. YES.

10:27AM 9 Q. AND IN THAT WHEN MR. BALWANI IS REFERENCING CLUNKERS, HE'S

10:27AM 10 TALKING ABOUT FDA APPROVED DEVICES; CORRECT?

10:27AM 11 A. THAT'S MY MEMORY, YEAH.

10:27AM 12 Q. AND NORMANDY RELATES TO THE LDT FOR FINGERSTICK TESTING;

10:27AM 13 CORRECT?

10:27AM 14 A. CORRECT.

10:27AM 15 Q. AND THEN MR. BALWANI CONTINUES, "CAN YOU INVENTORY WHAT WE

10:27AM 16 NEED TO BUILD A CLUNKERS LAB AND WHAT PERCENTAGE VOLUME WILL IT

10:27AM 17 COVER."

10:27AM 18 DO YOU SEE THAT?

10:27AM 19 A. YES.

10:27AM 20 Q. AND SO HE'S ASKING YOU TO ADVISE MR. BALWANI WHAT WILL BE

10:28AM 21 NEEDED FOR A NEW LAB; CORRECT?

10:28AM 22 A. CORRECT.

10:28AM 23 Q. AND THEN CONTINUING WITH THE EXHIBIT, MARCH 18TH OF 2014,

10:28AM 24 IT LOOKS LIKE YOU RESPONDED TO MR. BALWANI'S REQUEST; CORRECT?

10:28AM 25 A. IT DOES, YES.

10:28AM 1 Q. AND YOU WROTE, "SUNNY,

10:28AM 2 "LET ME KNOW IF YOU WOULD LIKE MORE INFORMATION OR DETAIL.

10:28AM 3 HERE IS A SUMMARY."

10:28AM 4 AND THEN YOU REFERENCED EQUIPMENT THAT WOULD BE NEEDED FOR

10:28AM 5 A NEW LABORATORY; CORRECT?

10:28AM 6 A. CORRECT.

10:28AM 7 Q. AND WHEN MR. BALWANI ASKED YOU ABOUT BECOMING A NEW LAB

10:28AM 8 DIRECTOR IN PENNSYLVANIA, YOU DID NOT ASK HIM -- WELL, SCRATCH

10:28AM 9 THAT. SET THAT ASIDE. YOU CAN PUT THAT ASIDE.

10:29AM 10 IF YOU CAN TAKE A LOOK AT EXHIBIT 20458.

10:29AM 11 A. OKAY.

10:29AM 12 Q. NOW, AS YOU SIT HERE TODAY, YOU DON'T RECALL WHAT DAY YOU

10:29AM 13 RECEIVED A COPY OF THE "WIRED" ARTICLE THAT YOU SAY LED TO YOUR

10:29AM 14 RESIGNATION?

10:29AM 15 A. I DIDN'T REMEMBER THE EXACT DATE.

10:29AM 16 Q. OKAY. TAKE A LOOK AT EXHIBIT 20458. 20458.

10:29AM 17 ARE YOU LOOKING AT IT?

10:29AM 18 A. YES.

10:29AM 19 Q. AND IT APPEARS TO BE AN EMAIL?

10:29AM 20 A. THERE IS A -- IT'S AN EMAIL, YES.

10:29AM 21 Q. THE LATER OF WHICH APPEARS TO BE FROM A SWAPNA JOSHI.

10:30AM 22 DO YOU SEE THAT?

10:30AM 23 A. YES.

10:30AM 24 Q. TO YOURSELF?

10:30AM 25 A. AND ADAM.

10:30AM 1 Q. AND DR. ROSENDORFF.

10:30AM 2 DATED 2/27/2014.

10:30AM 3 DO YOU SEE THAT?

10:30AM 4 A. YES.

10:30AM 5 Q. AND THERE'S A REFERENCE TO "WIRED" ARTICLE.

10:30AM 6 DO YOU SEE THAT?

10:30AM 7 A. I DO.

10:30AM 8 Q. AND THEN BELOW THAT THERE'S A MESSAGE INVOLVING DR. YOUNG

10:30AM 9 AND OTHERS WITHIN THE COMP BIO LAB.

10:30AM 10 DO YOU SEE THAT?

10:30AM 11 A. OH, THE TO IS COMP.BIO.

10:30AM 12 Q. EXACTLY.

10:30AM 13 AND YOU KNOW WHO DR. YOUNG IS?

10:30AM 14 A. YES.

10:30AM 15 Q. AND SWAPNA JOSHI WORKED WITH DR. YOUNG; CORRECT?

10:30AM 16 A. I DON'T REMEMBER JOSHI SWAPNA.

10:30AM 17 Q. AND THE MESSAGE REFLECTS YOU RECEIVED THE "WIRED" ARTICLE

10:31AM 18 ON FEBRUARY 27, 2014; CORRECT?

10:31AM 19 A. THIS LINK WAS SENT TO ME ON THAT DAY.

10:31AM 20 Q. SO THAT WAS MORE THAN THREE MONTHS BEFORE YOU LEFT

10:31AM 21 THERANOS; CORRECT?

10:31AM 22 A. YES.

10:31AM 23 MR. CAZARES: MOVE TO ADMIT 20458, YOUR HONOR.

10:31AM 24 MR. BOSTIC: NO OBJECTION.

10:31AM 25 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

10:31AM 1 (DEFENDANT'S EXHIBIT 20458 WAS RECEIVED IN EVIDENCE.)

10:31AM 2 BY MR. CAZARES:

10:31AM 3 Q. AGAIN, TO ORIENT THE JURY, THE EARLIER OF THE TWO MESSAGES

10:31AM 4 IN THE CHAIN APPEARS TO BE FROM DR. YOUNG TO COMP.BIO.

10:31AM 5 DO YOU SEE THAT?

10:31AM 6 A. I DO.

10:31AM 7 Q. IS THAT A LIST SERVICE OF SOME SORT?

10:31AM 8 A. I DON'T KNOW WHAT THAT IS.

10:31AM 9 Q. AND THE DATE IS FEBRUARY 20TH, 2014.

10:31AM 10 DO YOU SEE THAT?

10:31AM 11 A. YES.

10:31AM 12 Q. AND THE SUBJECT LINE IS "WIRED" ARTICLE.

10:31AM 13 DO YOU SEE THAT?

10:31AM 14 A. YES.

10:31AM 15 Q. AND THEN THERE'S A LINK TO A "WIRED" ARTICLE THAT

10:31AM 16 REFERENCES ELIZABETH HOLMES AND THERANOS.

10:32AM 17 DO YOU SEE THAT?

10:32AM 18 A. YES.

10:32AM 19 Q. AND AGAIN, THE "WIRED" ARTICLE RELATING TO MS. HOLMES IS

10:32AM 20 WHAT YOU SAID WAS A CATALYST TO YOUR RESIGNATION FROM THERANOS;

10:32AM 21 CORRECT?

10:32AM 22 A. A BIG PART, YEP.

10:32AM 23 Q. AND THEN CONTINUING ON THE CHAIN, IT APPEARS THAT YOU

10:32AM 24 RECEIVED IT FROM MR. JOSHI, THE LINK TO THE ARTICLE, ON

10:32AM 25 FEBRUARY 27, 2014; CORRECT?

10:32AM 1 A. CORRECT.

10:32AM 2 Q. AND THIS IS ALSO BEFORE MR. BALWANI ASKED YOU ABOUT

10:32AM 3 BECOMING A LAB DIRECTOR IN PENNSYLVANIA FOR THERANOS; CORRECT?

10:32AM 4 A. CORRECT.

10:32AM 5 Q. AND THIS IS ALSO BEFORE THE MAY 2014 TRANSITION REPORTS

10:32AM 6 THAT YOU SENT TO DR. ROSENDORFF AND MR. BALWANI WHERE YOU

10:32AM 7 ADVISED THAT THEY NEEDED TO DOUBLE THE NUMBER OF EDISONS IN THE

10:32AM 8 CLINICAL LAB; CORRECT?

10:32AM 9 A. IT WAS BEFORE THAT EMAIL, YEAH.

10:32AM 10 Q. YOU CAN SET THAT ASIDE.

10:33AM 11 YOU CAN TAKE A LOOK AT EXHIBIT 20253. 20253.

10:33AM 12 A. OKAY, I'M THERE.

10:33AM 13 Q. ARE YOU LOOKING AT 20253?

10:33AM 14 A. I HAVE 20253.

10:33AM 15 Q. OKAY. AND 20253 APPEARS TO BE AN EMAIL CHAIN DATED

10:34AM 16 MAY 12TH OF 2014.

10:34AM 17 DO YOU SEE THAT?

10:34AM 18 A. ARE YOU REFERRING TO 20253?

10:34AM 19 Q. YES.

10:34AM 20 A. NO, I DON'T MATCH THOSE DATES.

10:34AM 21 Q. YOU KNOW WHAT? SET THAT ONE ASIDE.

10:34AM 22 YOU WANT TO LOOK AT 20490.

10:34AM 23 A. 20490?

10:34AM 24 Q. YES.

10:35AM 25 A. DO YOU KNOW WHAT VOLUME THAT IS IN?

10:35AM 1 Q. 20490 WOULD BE IN THE SMALLER BINDER THAT SAYS YOUR NAME  
10:35AM 2 ON THE FRONT.

10:35AM 3 A. OKAY. I'M THERE.

10:35AM 4 Q. 20490 APPEARS TO BE AN EMAIL CHAIN, THE LATTER OF WHICH AT  
10:35AM 5 THE TOP OF THE FIRST PAGE LOOKS TO BE DATED 5/22/2014.

10:35AM 6 DO YOU SEE THAT?

10:35AM 7 A. YES.

10:35AM 8 Q. A MESSAGE FROM YOURSELF TO SANI HADZIAHETOVIC?

10:35AM 9 DO YOU SEE THAT?

10:35AM 10 A. I SEE IT.

10:35AM 11 Q. AND THE SUBJECT MATTER IS EDISONS.

10:35AM 12 DO YOU SEE THAT?

10:35AM 13 A. YES.

10:35AM 14 MR. CAZARES: YOUR HONOR, MOVE TO ADMIT PER THE  
10:35AM 15 PARTIES' STIPULATION REGARDING EMAILS.

10:35AM 16 MR. BOSTIC: IF AS A BUSINESS RECORD, NO OBJECTION,  
10:35AM 17 YOUR HONOR.

10:35AM 18 MR. CAZARES: THIS ONE IS PRIOR INCONSISTENT  
10:35AM 19 STATEMENTS, IMPEACHMENT RELATING TO EDISONS.

10:36AM 20 THE COURT: WELL, I'LL ADMIT IT. IT'S ADMITTED  
10:36AM 21 PURSUANT TO THE STIPULATION.

10:36AM 22 (DEFENDANT'S EXHIBIT 20490 WAS RECEIVED IN EVIDENCE.)

10:36AM 23 BY MR. CAZARES:

10:36AM 24 Q. AND WE CAN START AT THE TOP OF FIRST PAGE, DR. PANDORI,  
10:36AM 25 AGAIN A MAY 22ND, 2014, MESSAGE FROM YOURSELF TO

10:36AM 1 SANI HADZIAHETOVIC.

10:36AM 2 A. YES.

10:36AM 3 Q. AND YOU WROTE, "OK SANI,

10:36AM 4 "THANK YOU FOR YOUR ATTENTION AND WORK TO GET THIS GOING.

10:36AM 5 LET ME KNOW HOW I CAN ASSIST."

10:36AM 6 DO YOU SEE THAT?

10:36AM 7 A. YES.

10:36AM 8 Q. AND THIS RELATES TO EDISONS IN SOME WAY?

10:36AM 9 A. THAT'S THE SUBJECT LINE.

10:36AM 10 Q. WHY DON'T WE GO BACK ON PAGE 4, MIDDLE OF THE PAGE, THERE

10:37AM 11 APPEARS TO BE A MESSAGE FROM YOURSELF, MAY 20, 2014.

10:37AM 12 DO YOU SEE THAT?

10:37AM 13 A. YES.

10:37AM 14 Q. AND THEN THE MESSAGE IS TO A CHINMAY PANGARKAR.

10:37AM 15 DO YOU SEE THAT?

10:37AM 16 A. YES.

10:37AM 17 Q. ADAM ROSENDORFF.

10:37AM 18 DO YOU SEE THAT?

10:37AM 19 A. YES.

10:37AM 20 Q. NISHIT DOSHI.

10:37AM 21 DO YOU SEE THAT?

10:37AM 22 A. YES.

10:37AM 23 Q. AURELIE SOUPPE?

10:37AM 24 A. YES.

10:37AM 25 Q. ROMINA RIENER?

10:37AM 1 A. YES.

10:37AM 2 Q. AS WELL AS HODA ALAMDAR; CORRECT?

10:37AM 3 A. YES.

10:37AM 4 Q. NOW, MS. SOUPPE, MS. RIENER, AND MS. ALAMDAR ALL WORKED

10:37AM 5 WITHIN THE CLINICAL LAB; CORRECT?

10:37AM 6 A. YES.

10:37AM 7 Q. BUT DR. PANGARKAR WAS NOT WITHIN THE CLINICAL LAB;

10:37AM 8 CORRECT?

10:37AM 9 A. HE DIDN'T WORK AS A LAB TECH OR A CLS. I BELIEVE HE

10:37AM 10 WORKED DEVELOPING CBC TESTS, BUT I'M NOT 100 PERCENT CLEAR ON

10:37AM 11 MY MEMORY ON THAT.

10:37AM 12 Q. AND GETTING BACK TO THE MESSAGE FROM YOURSELF, YOU WROTE,

10:37AM 13 "HI, CHINMAY, NISHIT."

10:37AM 14 DO YOU SEE THAT?

10:37AM 15 A. YES.

10:37AM 16 Q. AND YOU WROTE, "THERE REMAINS AN ISSUE IN NORMANDY WITH

10:37AM 17 THE NUMBER OF EDISON READERS AVAILABLE FOR PATIENT TESTING. WE

10:38AM 18 WILL SURELY NEED MORE READERS FOR THE FOLLOWING REASONS."

10:38AM 19 DO YOU SEE THAT?

10:38AM 20 A. YES.

10:38AM 21 Q. AND THOSE ARE YOUR WORDS; CORRECT?

10:38AM 22 A. YES, THE FROM LINE IS ME.

10:38AM 23 Q. AND THIS IS MAY 20, 2014. THIS IS THE DAY AFTER YOUR

10:38AM 24 BIRTHDAY IN 2014; CORRECT?

10:38AM 25 A. IT IS.

10:38AM 1 Q. WHICH MEANS THIS IS A DAY WITHIN A DAY OF THE CONVERSATION  
10:38AM 2 THAT YOU SAY YOU HAD WITH MS. HOLMES AND MR. BALWANI THAT LED  
10:38AM 3 TO YOUR RESIGNATION AROUND THE TIME OF YOUR BIRTHDAY, MAY 19TH,  
10:38AM 4 2014; CORRECT?  
10:38AM 5 A. WELL, AS I'VE SAID, I'M NOT -- I DON'T RECALL PRECISELY  
10:38AM 6 THE DAY THAT I HAD THAT CONVERSATION.  
10:38AM 7 Q. WE CAN CONTINUE BACK TO THE MESSAGE. UNDER ITEM 1 YOU  
10:38AM 8 WROTE, "THE NUMBER OF EDISON TESTS IS ALREADY CHALLENGING THE  
10:38AM 9 NUMBER WE HAVE."  
10:38AM 10 DO YOU SEE THAT?  
10:38AM 11 A. YES.  
10:38AM 12 Q. AND THEN YOU FOLLOW, "A NEW WORKFLOW PROCESS WILL REQUIRE  
10:38AM 13 ALL VACUTAINERS WITH EDISON-CAPABLE TESTS TO BE ALIQUOTED INTO  
10:38AM 14 CTN AND TESTED ON EDISONS."  
10:39AM 15 DO YOU SEE THAT?  
10:39AM 16 A. YES.  
10:39AM 17 Q. AND THE MESSAGE CONTINUES. "MORE STORES ARE OPENING THIS  
10:39AM 18 WEEK (WE CANNOT ESTIMATE HOW MANY MORE SPECIMENS WILL BE COMING  
10:39AM 19 IN AS A RESULT)."  
10:39AM 20 DO YOU SEE THAT?  
10:39AM 21 A. YES.  
10:39AM 22 Q. NOW, IN THE MESSAGE, YOU WERE NOT TELLING DR. PANGARKAR TO  
10:39AM 23 STOP USING EDISONS FOR PATIENT TESTING; CORRECT?  
10:39AM 24 A. CORRECT.  
10:39AM 25 Q. AND IN THE MESSAGE, MAY 20, 2014, YOU ARE NOT TELLING

10:39AM 1 DR. ROSENDORFF TO STOP USING EDISONS FOR PATIENT TESTING;

10:39AM 2 CORRECT?

10:39AM 3 A. CORRECT.

10:39AM 4 Q. YOU'RE NOT TELLING ANY OF THE PERSONS IN EXHIBIT 20490 TO

10:39AM 5 STOP USING EDISONS; CORRECT?

10:39AM 6 A. I DON'T HAVE THAT AUTHORITY, AND I DID NOT AT THAT TIME.

10:39AM 7 Q. AND YOU'RE NOT MAKING THAT RECOMMENDATION IN EXHIBIT 20490

10:39AM 8 EITHER, ARE YOU?

10:39AM 9 A. I'M NOT MAKING THAT RECOMMENDATION HERE.

10:39AM 10 Q. IF WE CAN CONTINUE TO PAGE 5 OF THE MESSAGE.

10:40AM 11 YOU QUOTE, "THERE ARE APPARENTLY 2 ADDITIONAL READERS FOR

10:40AM 12 TSH, HOWEVER THEY ARE NOT BEEN CHARACTERIZED PROPERLY FOR USE."

10:40AM 13 DO YOU SEE THAT?

10:40AM 14 A. YES.

10:40AM 15 Q. AND THEN YOU FOLLOWED, "FOR TSH ALONE, WE HAVE ABOUT 10

10:40AM 16 TEST-HOURS OF DEMAND, NOT COUNTING BOTH QC RUNS AND ANY RERUNS

10:40AM 17 THAT ARE NECESSARY.

10:40AM 18 DO YOU SEE THAT?

10:40AM 19 A. YES.

10:40AM 20 Q. "OF COURSE OTHER TESTS ARE DEMANDING THE ATTENTION OF THE

10:40AM 21 TECHNICIAN, SO THINGS ARE NOT RUNNING PERFECTLY END-TO-END AND

10:40AM 22 SO THE AMOUNT OF WORK IS PRETTY HIGH."

10:40AM 23 DO YOU SEE THAT?

10:40AM 24 A. CORRECT.

10:40AM 25 Q. AND AT THAT TIME PATIENT VOLUME WAS INCREASING AT THE

10:40AM 1 CLINICAL LAB; CORRECT?

10:40AM 2 A. YEAH. I DON'T SPECIFICALLY RECALL WHAT THE NUMBERS WERE

10:40AM 3 AT THAT POINT IN TIME.

10:40AM 4 Q. THE MESSAGE CONTINUES, "CLIA LAB AIMS TO BRING MORE PEOPLE

10:40AM 5 INTO THIS SECTION TO TRAIN."

10:40AM 6 DO YOU SEE THAT?

10:40AM 7 A. YES.

10:40AM 8 Q. "HOWEVER, IN ORDER TO BE EFFECTIVE, EXTRA PEOPLE WILL NEED

10:40AM 9 MORE READERS."

10:40AM 10 DO YOU SEE THAT?

10:40AM 11 A. YES.

10:40AM 12 Q. THOSE ARE YOUR WORDS; CORRECT?

10:41AM 13 A. CORRECT.

10:41AM 14 Q. FOR THE LAB TECHNICIANS TO BE MORE EFFECTIVE, THEY WILL

10:41AM 15 NEED MORE READERS?

10:41AM 16 A. CORRECT.

10:41AM 17 Q. AND BY READERS YOU MEAN MORE EDISONS; CORRECT?

10:41AM 18 A. CORRECT.

10:41AM 19 Q. AND THEN YOU WROTE, "I'D LIKE TO DISCUSS A PLAN TO DOUBLE

10:41AM 20 THE NUMBER OF READERS FOR THE THREE MAIN TESTS."

10:41AM 21 DO YOU SEE THAT?

10:41AM 22 A. CORRECT.

10:41AM 23 Q. THOSE ARE YOUR WORDS; CORRECT?

10:41AM 24 A. CORRECT.

10:41AM 25 Q. AND BY "THREE MAIN TESTS," THAT'S THREE MAIN TESTS RUN ON

10:41AM 1 EDISON FOR PATIENT TESTING; CORRECT?

10:41AM 2 A. CORRECT.

10:41AM 3 Q. AND "THIS WILL BE NECESSARY AS MORE STORES WILL BE OPENING

10:41AM 4 IN JUNE AND WE STILL DON'T KNOW THE IMPACT OF THE OPENINGS IN

10:41AM 5 MAY."

10:41AM 6 DO YOU SEE THAT?

10:41AM 7 A. CORRECT.

10:41AM 8 Q. SO YOU WERE EXPECTING PATIENT VOLUME TO GO UP AT THE TIME,

10:41AM 9 WHICH IS WHY YOU WERE ASKING FOR MORE EDISONS AT THE TIME;

10:41AM 10 CORRECT?

10:41AM 11 A. YEAH. THEY FAILED SO FREQUENTLY THAT WE NEEDED MORE OF

10:41AM 12 THEM.

10:41AM 13 Q. BUT YOU'RE NOT SAYING STOP USING THEM, ARE YOU?

10:41AM 14 A. NOT IN THIS EMAIL.

10:42AM 15 Q. YOU CAN SET THAT ASIDE.

10:42AM 16 IF YOU CAN TAKE A LOOK AT EXHIBIT 20521.

10:42AM 17 A. OKAY. I'M THERE.

10:42AM 18 Q. 20521 APPEARS TO BE A MESSAGE, A CHAIN OF EMAILS, THE

10:42AM 19 LATTER OF WHICH IS DATED MAY 22ND, 2014.

10:42AM 20 DO YOU SEE THAT?

10:42AM 21 A. I SEE THE EMAILS.

10:42AM 22 Q. AND THE MESSAGE AT THE TOP APPEARS TO BE FROM YOURSELF.

10:42AM 23 DO YOU SEE THAT?

10:42AM 24 A. YES.

10:42AM 25 Q. TO MAX FOSQUE.

10:42AM 1 DO YOU SEE THAT?

10:42AM 2 A. YES.

10:42AM 3 Q. AND THE SUBJECT IS RE 35050 AND 23321.

10:43AM 4 DO YOU SEE THAT?

10:43AM 5 A. YES.

10:43AM 6 Q. AND MR. FOSQUE WAS ONE OF THOSE PROJECT MANAGERS AT

10:43AM 7 THERANOS; CORRECT?

10:43AM 8 A. YES.

10:43AM 9 Q. AND HE'S SOMEONE THAT YOU HAD OCCASION TO DEAL WITH IN

10:43AM 10 YOUR BUSINESS AT THERANOS; CORRECT?

10:43AM 11 A. FREQUENT OCCASION.

10:43AM 12 MR. CAZARES: MOVE TO ADMIT 20521, YOUR HONOR.

10:43AM 13 MR. BOSTIC: NO OBJECTION.

10:43AM 14 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

10:43AM 15 (DEFENDANT'S EXHIBIT 20521 WAS RECEIVED IN EVIDENCE.)

10:43AM 16 BY MR. CAZARES:

10:43AM 17 Q. NOW, STARTING AT THE TOP OF THE MESSAGE, THE LATTER OF THE

10:43AM 18 MESSAGES IN THE CHAIN, YOU WROTE TO MR. FOSQUE, "NO PROBLEM.

10:43AM 19 "I WHOLEHEARTEDLY EXPECTED IT TO PLAY OUT EXACTLY AS IT

10:43AM 20 PLAYED OUT.

10:43AM 21 "THANKS, MAX."

10:43AM 22 DO YOU SEE THAT?

10:43AM 23 A. I SEE IT.

10:43AM 24 Q. AND THEN IN RESPONSE -- THAT IS A RESPONSE TO A MESSAGE

10:44AM 25 FROM MR. FOSQUE WHERE HE WROTE, "THANKS... SHOULD I NOT HAVE

10:44AM 1 SENT THAT EMAIL, PERHAPS?

10:44AM 2 "WE WOULD HAVE LOOKED VERY FOOLISH IN FRONT OF A LARGE

10:44AM 3 DOCTOR'S GROUP IF WE HAD CALLED ONE OF THOSE PATIENTS FOR A

10:44AM 4 SECOND REDRAW..."

10:44AM 5 DO YOU SEE THAT?

10:44AM 6 A. I SEE IT.

10:44AM 7 Q. AND THE MESSAGE BELOW THAT APPEARS TO BE DATED MAY 21,

10:44AM 8 2014.

10:44AM 9 DO YOU SEE THAT?

10:44AM 10 A. YES.

10:44AM 11 Q. FROM YOURSELF; CORRECT?

10:44AM 12 A. CORRECT.

10:44AM 13 Q. TO MR. BALWANI?

10:44AM 14 A. AMONG OTHERS.

10:44AM 15 Q. MAX FOSQUE, DR. ROSENDORFF IS ALSO IN THE TO LINE.

10:44AM 16 DO YOU SEE THAT?

10:44AM 17 A. I DO.

10:44AM 18 Q. DANIEL YOUNG?

10:44AM 19 A. YES.

10:44AM 20 Q. NISHIT DOSHI.

10:44AM 21 DO YOU SEE THAT?

10:44AM 22 A. YES.

10:44AM 23 Q. AND TINA LIN?

10:44AM 24 A. I SEE IT.

10:44AM 25 Q. AND THEN THERE ARE OTHERS COPIED IN THE CC LINE?

10:44AM 1 A. YES.

10:44AM 2 Q. AND IN THE MESSAGE YOU WROTE, "I HAD BEEN NOTIFIED OF THIS

10:45AM 3 SITUATION VERY RECENTLY, TODAY, THROUGH MARIA WHO IS TRYING TO

10:45AM 4 REVIEW AND RELEASE THESE."

10:45AM 5 DO YOU SEE THAT?

10:45AM 6 A. YES.

10:45AM 7 Q. AND BY "THESE" THAT'S RELATING TO PATIENT RESULTS;

10:45AM 8 CORRECT?

10:45AM 9 A. I GUESS SO. I MEAN, THAT WOULD MAKE SENSE IN THE CONTEXT

10:45AM 10 OF THE EMAIL, BUT I DON'T KNOW FOR SURE.

10:45AM 11 Q. AND THEN YOU CONTINUED IN THE MESSAGE, "THE SAMPLES ARE

10:45AM 12 BOTH LOCATED AND ARE SCHEDULED TO BE RUN ASAP."

10:45AM 13 DO YOU SEE THAT?

10:45AM 14 A. YES.

10:45AM 15 Q. AND THEN YOUR MESSAGE CONTINUES, "THE EDISON OPERATORS

10:45AM 16 FAILED TO ENTER THESE TWO SPECIMENS INTO THE WORKFLOW."

10:45AM 17 DO YOU SEE THAT?

10:45AM 18 A. YES.

10:45AM 19 Q. AND THEN YOU CONTINUED, "IN A PURSUIT OF WHY, IT SEEMS

10:45AM 20 THAT AT LEAST PART OF THE ISSUE WAS THAT THEY WERE NOT USING

10:45AM 21 THE PENDING LISTS NOW BEING GENERATED EACH DAY, AND INSTEAD

10:45AM 22 RELYING ON THE BINDER DOWNSTAIRS WITH THE SPECIMEN PRINTOUTS."

10:45AM 23 DO YOU SEE THAT?

10:45AM 24 A. YEAH.

10:45AM 25 Q. "TOMORROW THERE IS A CLIA WIDE MEETING TO DISCUSS THE

10:45AM 1 UTILIZATION OF THE NOVEL PENDING LISTS, AND TO REVIEW THIS  
10:46AM 2 ISSUE."

10:46AM 3 DO YOU SEE THAT?

10:46AM 4 A. YES.

10:46AM 5 Q. SO YOU ARE REPORTING TO THE RECIPIENTS OF THE MESSAGE THAT  
10:46AM 6 THE OPERATORS FAILED TO IDENTIFY TWO SPECIMENS AS NEEDING TO BE  
10:46AM 7 RUN; CORRECT?

10:46AM 8 A. YES.

10:46AM 9 Q. AND THEN YOU WERE IDENTIFYING A WAY THAT YOU WERE GOING TO  
10:46AM 10 SOLVE THAT PROBLEM IN THE FUTURE; CORRECT?

10:46AM 11 A. YES.

10:46AM 12 Q. AND THEN THE MESSAGE CONTINUES. YOU WROTE, "RELATEDLY, I  
10:46AM 13 HAVE ON TWO OCCASIONS IN THE LAST 2 WEEKS REQUESTED MORE EDISON  
10:46AM 14 READERS TO BE MADE AVAILABLE IN NORMANDY."

10:46AM 15 DO YOU SEE THAT?

10:46AM 16 A. YES.

10:46AM 17 Q. THOSE ARE YOUR WORDS; CORRECT?

10:46AM 18 A. CORRECT.

10:46AM 19 Q. "TESTING VOLUMES ARE GOING UP AND HAVING ONLY 2 TO 3  
10:46AM 20 READERS PER TEST CAUSES SPECIMENS TO BACK UP AND FOR THE  
10:46AM 21 WORKFLOW TO GAIN COMPLEXITY."

10:46AM 22 DO YOU SEE THAT?

10:46AM 23 A. OH, YEAH.

10:46AM 24 Q. AND THIS BACKUP ISSUE OR TURN-AROUND TIME, THAT WAS A  
10:46AM 25 CONCERN YOU HAD AT THE TIME; CORRECT?

10:46AM 1 A. AMONG SEVERAL CONCERNS, YES.

10:47AM 2 Q. AND THEN YOU CONTINUED, "I AM TOLD THAT MORE READERS ARE

10:47AM 3 ON THEIR WAY, AT LEAST FOR THE MOST COMMON TESTS."

10:47AM 4 CORRECT?

10:47AM 5 A. CORRECT.

10:47AM 6 Q. AND IN THE MESSAGE, YOU'RE NOT TELLING THE RECIPIENTS OF

10:47AM 7 THIS MESSAGE TO STOP USING EDISONS FOR PATIENT TESTING;

10:47AM 8 CORRECT?

10:47AM 9 A. CORRECT.

10:47AM 10 Q. AND AMONG THE RECIPIENTS OF THIS MESSAGE IS MR. BALWANI;

10:47AM 11 CORRECT?

10:47AM 12 A. CORRECT.

10:47AM 13 MR. CAZARES: YOUR HONOR, MAY I HAVE A MOMENT?

10:47AM 14 THE COURT: YES.

10:48AM 15 (DISCUSSION AMONGST DEFENSE COUNSEL OFF THE RECORD.)

10:48AM 16 MR. CAZARES: YOUR HONOR, NO FURTHER QUESTIONS AT

10:48AM 17 THIS TIME.

10:48AM 18 THE COURT: REDIRECT?

10:48AM 19 MR. BOSTIC: YES, YOUR HONOR.

10:48AM 20 YOUR HONOR, MAY I ASK WHEN THE COURT IS CONSIDERING TAKING

10:48AM 21 A MORNING BREAK?

10:48AM 22 THE COURT: WELL, MAYBE AT THE BOTTOM OF THE HOUR.

10:48AM 23 ANOTHER 40 MINUTES.

10:48AM 24 I DON'T SEE AN OBJECTION, SO LET'S DO THAT.

10:48AM 25 MR. BOSTIC: THANK YOU, YOUR HONOR. WE'LL PLAN

10:48AM 1 ACCORDINGLY.

10:48AM 2 **REDIRECT EXAMINATION**

10:48AM 3 BY MR. BOSTIC:

10:48AM 4 Q. GOOD MORNING, DR. PANDORI.

10:48AM 5 A. GOOD MORNING.

10:48AM 6 Q. I WOULD LIKE TO ASK YOU A FEW QUESTIONS FOLLOWING UP ON

10:48AM 7 YOUR CONVERSATION WITH MR. CAZARES OVER THE LAST COUPLE OF

10:48AM 8 DAYS.

10:49AM 9 FIRST I'D LIKE TO START ON THE TOPIC OF PROFICIENCY

10:49AM 10 TESTING AT THERANOS. DO YOU RECALL TALKING ABOUT THAT ON YOUR

10:49AM 11 DIRECT EXAM AND THEN ON CROSS?

10:49AM 12 A. YES, I DO.

10:49AM 13 Q. AND IN PARTICULAR, DO YOU RECALL DISCUSSIONS ABOUT A TEST

10:49AM 14 THAT WAS RUN AT THERANOS ON PROFICIENCY TESTING SAMPLES IN

10:49AM 15 FEBRUARY OF 2014?

10:49AM 16 A. YES.

10:49AM 17 Q. ON CROSS, MR. CAZARES ASKED YOU WHETHER YOU HAD PERSONALLY

10:49AM 18 OBSERVED THAT TESTING BEING PERFORMED.

10:49AM 19 DO YOU RECALL THAT QUESTIONING?

10:49AM 20 A. YES, I RECALL THAT.

10:49AM 21 Q. AND YOUR TESTIMONY WAS THAT YOU HAD NOT SEEN THAT TESTING

10:49AM 22 ACTUALLY HAPPEN; CORRECT?

10:49AM 23 A. CORRECT.

10:49AM 24 Q. DO YOU HAVE ANY REASON, SITTING HERE TODAY, TO DOUBT THAT

10:49AM 25 THAT TEST WAS PERFORMED PROPERLY?

10:49AM 1 MR. CAZARES: OBJECTION. CALLS FOR SPECULATION.

10:49AM 2 THE COURT: OVERRULED.

10:49AM 3 THE WITNESS: NO, I HAVE NO REASON TO BELIEVE THAT

10:50AM 4 IT WAS TESTED INCORRECTLY.

10:50AM 5 LABORATORIES OPERATE BY STANDARD OPERATING PROCEDURES THAT

10:50AM 6 ARE WRITTEN AND TRAINED AND COMPETENCY IS ASSESSED, AND THAT'S

10:50AM 7 UNLIKE OTHER STYLES OF WORKPLACES.

10:50AM 8 BY MR. BOSTIC:

10:50AM 9 Q. AND I'D LIKE TO ASK YOU, ON THAT SAME TOPIC, ABOUT

10:50AM 10 ERIKA CHEUNG SPECIFICALLY. ARE YOU FAMILIAR WITH MS. CHEUNG

10:50AM 11 AND HER POSITION AT THE COMPANY?

10:50AM 12 A. I AM.

10:50AM 13 Q. ARE YOU FAMILIAR WITH MS. CHEUNG'S ROLE IN THE CLINICAL

10:50AM 14 LAB AT THERANOS DURING YOUR TIME THERE?

10:50AM 15 A. I AM FAMILIAR.

10:50AM 16 Q. AS PART OF MS. CHEUNG'S ROLE AT THERANOS, DID SHE HAVE

10:50AM 17 EXPERIENCE WITH THE PROCEDURES FOR RUNNING PATIENT SAMPLES ON

10:50AM 18 EDISON DEVICES?

10:50AM 19 A. IT WAS MY UNDERSTANDING THAT SHE DID, YES.

10:50AM 20 Q. AND WHERE DID THAT EXPERIENCE COME FROM BASED ON YOUR

10:50AM 21 UNDERSTANDING?

10:50AM 22 A. THERANOS.

10:50AM 23 Q. AND WHAT WAS IT ABOUT HER ROLE THAT GAVE HER THAT

10:50AM 24 EXPERIENCE?

10:51AM 25 A. HER ROLE WAS AS A LABORATORY ASSOCIATE, AND THAT WAS THEIR

10:51AM 1 ROLE AND JOB DESCRIPTION.

10:51AM 2 Q. THERE WAS ALSO SOME DISCUSSION WITH MR. CAZARES ABOUT

10:51AM 3 WHERE THE TEST MATERIAL FOR THAT FEBRUARY TEST CAME FROM.

10:51AM 4 DO YOU RECALL THAT?

10:51AM 5 A. YES.

10:51AM 6 Q. AND MR. CAZARES ASKED YOU ABOUT THE FACT THAT THOSE

10:51AM 7 SAMPLES HAD BEEN PREVIOUSLY RECEIVED AND USED FOR A ROUND OF

10:51AM 8 TESTING; IS THAT CORRECT?

10:51AM 9 A. CORRECT.

10:51AM 10 Q. DOES THAT FACT GIVE YOU ANY REASON TO DOUBT THE VALIDITY

10:51AM 11 OF THE FEBRUARY 2014 TESTS THAT WE'VE DISCUSSED?

10:51AM 12 A. NOT AT THIS TIME.

10:51AM 13 Q. THE FACT THAT THOSE SAMPLES HAD BEEN USED IN A PREVIOUS

10:51AM 14 ROUND, DOES THAT DEGRADE OR ERASE THE ABILITY OF THOSE SAMPLES

10:51AM 15 TO BE USED FOR THIS KIND OF TESTING?

10:52AM 16 MR. CAZARES: OBJECTION. 702.

10:52AM 17 THE COURT: OVERRULED. OVERRULED.

10:52AM 18 YOU CAN ANSWER THE QUESTION.

10:52AM 19 THE WITNESS: I'M NOT FAMILIAR WITH FOR THOSE

10:52AM 20 PARTICULAR TESTS EXACTLY, BUT IT WOULD BE COMMON, FROM A

10:52AM 21 STABILITY POINT OF VIEW OR --

10:52AM 22 MR. CAZARES: OBJECTION. FOUNDATION.

10:52AM 23 THE COURT: SUSTAINED.

10:52AM 24 YOU CAN ASK ANOTHER QUESTION.

10:52AM 25 MR. BOSTIC: MAY I LAY A FOUNDATION, YOUR HONOR?

10:52AM 1 THE COURT: YES.

10:52AM 2 BY MR. BOSTIC:

10:52AM 3 Q. DR. PANDORI, FROM YOUR WORK AT THERANOS, DO YOU HAVE AN

10:52AM 4 UNDERSTANDING AS TO THE GENERAL STABILITY OF SAMPLES LIKE WE'RE

10:52AM 5 TALKING ABOUT?

10:52AM 6 A. FROM MY WORK AT THERANOS?

10:52AM 7 Q. YES.

10:52AM 8 A. I HAVE A GENERAL UNDERSTANDING OF THE STABILITY OF SUCH

10:52AM 9 SPECIMENS BASED ON THE ENTIRETY OF MY EXPERIENCE.

10:52AM 10 Q. LET ME ASK YOU A MORE GENERAL QUESTION THEN.

10:52AM 11 YOU TESTIFIED EARLIER THAT IT WAS YOUR DECISION TO RUN

10:53AM 12 EDISON TESTING ON THESE SAMPLES IN FEBRUARY OF 2014; IS THAT

10:53AM 13 CORRECT?

10:53AM 14 A. YES.

10:53AM 15 Q. AND WHEN YOU DIRECTED THAT THAT TESTING HAPPEN, WHAT WAS

10:53AM 16 YOUR VIEW AS TO WHETHER THAT TESTING WAS GOING TO PROVIDE VALID

10:53AM 17 OR INVALID DATA?

10:53AM 18 A. MY VIEW WAS THAT IT WOULD PROVIDE VALID DATA.

10:53AM 19 Q. AND SITTING HERE TODAY, DO YOU HAVE ANY REASON TO DOUBT

10:53AM 20 THAT THAT DATA WAS VALID?

10:53AM 21 A. I HAVE NONE.

10:53AM 22 Q. MS. WACHS, CAN WE DISPLAY EXHIBIT 1548, AND SPECIFICALLY

10:53AM 23 THE ATTACHMENT.

10:53AM 24 DR. PANDORI, WHEN YOU WERE DISCUSSING THIS SPECIFIC TEST,

10:53AM 25 OR THIS TESTING WITH MR. CAZARES, THERE WAS ALSO SOME

10:53AM 1 DISCUSSION ABOUT AAP.

10:53AM 2 DO YOU RECALL THAT?

10:53AM 3 A. YES.

10:53AM 4 Q. AND THAT DISCUSSION CONCERNED, FOR EXAMPLE, WHETHER

10:54AM 5 THERANOS HAD A PEER GROUP SUCH THAT IT COULD DO PROFICIENCY

10:54AM 6 TESTING IN THE STANDARD, IN THE INDUSTRY STANDARD WAY; CORRECT?

10:54AM 7 A. CORRECT.

10:54AM 8 Q. AND YOU TESTIFIED THAT YOU RECOGNIZED THAT THERANOS DID

10:54AM 9 NOT HAVE A PEER GROUP SUCH THAT IT COULD DO STANDARD

10:54AM 10 PROFICIENCY TESTING; CORRECT?

10:54AM 11 A. CORRECT.

10:54AM 12 Q. AND WAS THAT YOUR UNDERSTANDING IN FEBRUARY OF 2014?

10:54AM 13 A. NO.

10:54AM 14 Q. WHEN YOU ORDERED THAT THIS TESTING TAKE PLACE IN FEBRUARY

10:54AM 15 OF 2014, HOW DID YOU ACCOUNT FOR THE FACT THAT THIS WAS NOT AAP

10:54AM 16 BUT WAS STANDARD PROFICIENCY TESTING?

10:54AM 17 A. WELL, AT THIS MOMENT IN TIME I WASN'T AWARE OF AN AAP

10:54AM 18 PROTOCOL AT THERANOS.

10:54AM 19 MY PRIMARY DRIVE AND CONCERN IN THAT ACTIVITY WAS THAT WE

10:54AM 20 HAD NOT DONE PT PROPERLY, WHICH IS TO SAY THAT WE HAD NOT DONE

10:55AM 21 PROFICIENCY TESTING IN A MANNER CONSISTENT WITH HOW PATIENT

10:55AM 22 SPECIMENS ARE TREATED.

10:55AM 23 SO MY PRIMARY GOAL WAS TO -- THERE WERE TWO GOALS. ONE

10:55AM 24 WAS TO GET THAT DONE; AND SECONDARILY, TO THEN SEE FOR MYSELF,

10:55AM 25 BECAUSE I WAS RELATIVELY NEW AT THAT COMPANY, HOW THE

10:55AM 1 PERFORMANCE WOULD GO.

10:55AM 2 Q. IN RETROSPECT -- WELL, LET ME ASK A DIFFERENT QUESTION.

10:55AM 3 SUBSEQUENTLY DID YOU COME TO HAVE A BETTER UNDERSTANDING

10:55AM 4 OF AAP PROTOCOLS OR REQUIREMENTS AS IT RELATED TO THERANOS?

10:55AM 5 A. I DID.

10:55AM 6 Q. INCORPORATING THAT UNDERSTANDING IN RETROSPECT, DO YOU NOW

10:55AM 7 VIEW THE DATA THAT WE'RE LOOKING AT ON THE SCREEN AS INVALID OR

10:55AM 8 NOT USEFUL IN TERMS OF MEASURING THE PERFORMANCE OF THERANOS

10:55AM 9 TESTS?

10:55AM 10 A. WELL, I WAS NOT ABLE TO ASCERTAIN THE ANSWER TO THAT

10:55AM 11 QUESTION.

10:55AM 12 YOU KNOW, I WASN'T THERE LONG ENOUGH FOR ANYBODY TO SHOW

10:56AM 13 ME ANY DATA THAT INDICATED THAT THERE WAS A MATRIX ISSUE.

10:56AM 14 ALTHOUGH THE CONSTRUCTION OF AAP'S PRIOR TO MY ARRIVAL AT

10:56AM 15 THERANOS WOULD IMPLY THAT SUCH STUDIES HAD BEEN DONE, I WAS

10:56AM 16 NEVER MADE AWARE OF THE RESULTS OF SUCH STUDIES.

10:56AM 17 Q. LET ME ASK IT MAYBE A SIMPLER WAY.

10:56AM 18 WE REVIEWED THIS DATA DURING YOUR DIRECT EXAMINATION;

10:56AM 19 CORRECT?

10:56AM 20 A. CORRECT.

10:56AM 21 Q. AND THIS TEST IN FEBRUARY OF 2014, IN YOUR VIEW, DID IT

10:56AM 22 REVEAL ANY PROBLEMS OR RAISE ANY CONCERN ABOUT THE ACCURACY OF

10:56AM 23 THERANOS'S TESTING?

10:56AM 24 MR. CAZARES: OBJECTION. 702.

10:56AM 25 THE COURT: OVERRULED.

10:56AM 1 THE WITNESS: YES, IT DID.

10:56AM 2 BY MR. BOSTIC:

10:56AM 3 Q. AND SUBSEQUENT TO THAT, DID YOUR ADDITIONAL DISCUSSIONS

10:56AM 4 ABOUT AAP, OR ANY OTHER TOPIC, REMOVE THOSE CONCERNS THAT THIS

10:56AM 5 DATA HAD RAISED ABOUT POSSIBLE INACCURACY WITH THERANOS TESTS?

10:56AM 6 A. NO, THEY HAD NOT ALL BY THEMSELVES REMOVED THAT.

10:57AM 7 Q. AND WHEN YOU LEFT THE COMPANY, DID YOU STILL HAVE CONCERNS

10:57AM 8 ABOUT THE ACCURACY OF THERANOS'S TESTING?

10:57AM 9 A. YES.

10:57AM 10 Q. LOOKING AT THIS DATA SPECIFICALLY, I'LL DRAW YOUR

10:57AM 11 ATTENTION TO THE PSA RESULTS IN COLUMNS D, E, F, AND G.

10:57AM 12 DO YOU SEE THAT DATA?

10:57AM 13 A. I DO.

10:57AM 14 Q. AND THERE WAS SOME DISCUSSION WITH MR. CAZARES ABOUT TWO

10:57AM 15 SAMPLES THAT WERE RERUN.

10:57AM 16 DO YOU RECALL THAT DISCUSSION?

10:57AM 17 A. I DO.

10:57AM 18 Q. AND MR. CAZARES SUGGESTED TO YOU THAT A RERUN MIGHT BE

10:57AM 19 NECESSARY IN CASES WHERE THERE WAS AN EQUIPMENT MALFUNCTION.

10:57AM 20 DO YOU RECALL THAT?

10:57AM 21 A. YES.

10:57AM 22 Q. DO YOU KNOW ONE WAY OR ANOTHER WHETHER THERE WAS AN

10:57AM 23 EQUIPMENT MALFUNCTION DURING THIS FEBRUARY 2014 TESTING?

10:57AM 24 A. I DO NOT KNOW ONE WAY OR THE OTHER.

10:57AM 25 Q. THE FACT THAT THOSE TWO SAMPLES WERE RERUN, DO THEY ALLOW

10:57AM 1 YOU TO DRAW ANY CONCLUSIONS OR REVEAL ANYTHING ABOUT THE  
10:58AM 2 PRECISION OF THE TWO TESTING METHODS THAT ARE BEING USED?  
10:58AM 3 A. YEAH. TAKEN AT FACE VALUE, THESE DATA DEMONSTRATED,  
10:58AM 4 ALBEIT WITH TWO SAMPLES RUN, THAT THE PREDICATE METHOD HAD HIGH  
10:58AM 5 PRECISION LIKELY, AND THAT THE THERANOS METHOD HAD LESS  
10:58AM 6 PRECISION.  
10:58AM 7 Q. AND WOULD TESTING PRECISION BE ONE POSSIBLE REASON WHY YOU  
10:58AM 8 MIGHT WANT TO RERUN SAMPLES IN A TEST LIKE THIS?  
10:58AM 9 A. WOULD PRECISION BE A REASON TO RERUN THEM?  
10:58AM 10 Q. WOULD A DESIRE TO TEST PRECISION BE A REASON WHY YOU MIGHT  
10:58AM 11 WANT TO RERUN SAMPLES IN A TEST LIKE THIS?  
10:58AM 12 A. NOT IN A PROFICIENCY TEST.  
10:58AM 13 BUT IN A VERIFICATION OR VALIDATION STUDY, YOU WOULD  
10:58AM 14 REALLY WANT TO DEFINITELY RERUN SPECIMENS TO ASCERTAIN  
10:58AM 15 PRECISION.  
10:58AM 16 MR. CAZARES: OBJECTION. NONRESPONSIVE.  
10:59AM 17 THE COURT: OVERRULED.  
10:59AM 18 BY MR. BOSTIC:  
10:59AM 19 Q. AND WAS THIS A FORMAL PROFICIENCY TEST?  
10:59AM 20 A. WAS WHAT A FORMAL PROFICIENCY TEST?  
10:59AM 21 Q. WHAT WE'RE LOOKING AT FROM FEBRUARY 2014.  
10:59AM 22 A. THEY WERE RUN ON FORMAL PROFICIENCY TESTING SPECIMENS.  
10:59AM 23 Q. BUT WHEN IT COMES TO -- AS FAR AS THE PROCEDURE AND THE  
10:59AM 24 PROTOCOLS, WAS THIS A FORMAL PROFICIENCY TESTING PROCESS?  
10:59AM 25 A. UM, I'M SORRY THAT I'M STUCK ON THE WORD "FORMAL." I

10:59AM 1 DON'T UNDERSTAND IT.

10:59AM 2 SOMEBODY NEEDED TO RUN PT REGULARLY AND ACCORDING TO

10:59AM 3 REGULATIONS, AND WE WERE TRYING TO ACHIEVE THAT. SO IF THAT

10:59AM 4 MEETS THE DEFINITION OF "FORMAL," THEN, YES, IT WAS FORMAL.

10:59AM 5 Q. UNDERSTOOD.

10:59AM 6 MS. WACHS, COULD WE CALL UP EXHIBIT 5545. THIS WAS

10:59AM 7 PREVIOUSLY ADMITTED. LET'S USE THE HARD COPY.

11:00AM 8 MS. ROBINSON, CAN WE USE THE ELMO FOR THAT?

11:00AM 9 EXHIBIT 5545 WAS PREVIOUSLY ADMITTED. MAY I PUBLISH,

11:00AM 10 YOUR HONOR?

11:00AM 11 THE COURT: YES.

11:00AM 12 BY MR. BOSTIC:

11:00AM 13 Q. DR. PANDORI, DO YOU SEE ON THE SCREEN TRIAL EXHIBIT 5545?

11:00AM 14 A. I SEE SOMETHING ON THE SCREEN, BUT I DON'T SEE THAT

11:00AM 15 NUMBER. I'M SORRY.

11:00AM 16 Q. THAT'S ALL RIGHT.

11:01AM 17 DO YOU SEE NOW AT THE BOTTOM THE EXHIBIT NUMBER?

11:01AM 18 A. YES, I SEE THAT EXHIBIT NUMBER.

11:01AM 19 Q. OKAY. DO YOU RECALL DISCUSSING THIS DOCUMENT WITH

11:01AM 20 MR. CAZARES?

11:01AM 21 A. WOULD YOU PLEASE MOVE THE DOCUMENT UPWARD?

11:01AM 22 YES.

11:01AM 23 Q. YES. AND THIS IS ALSO IN VOLUME 1 IN CASE YOU WOULD LIKE

11:01AM 24 TO FLIP THROUGH IT AT THE SAME TIME, BUT THAT'S UP TO YOU.

11:01AM 25 A. IT'S CLEARLY VISIBLE ON THE SCREEN NOW.

11:01AM 1 Q. I'LL DRAW YOUR ATTENTION TO PAGE 3 OF THIS DOCUMENT.

11:01AM 2 A. YES.

11:01AM 3 Q. AND DO YOU SEE THERE AN EMAIL FROM LANGLY GEE TO YOU AND

11:01AM 4 OTHERS AT THERANOS WITH THE SUBJECT LINE UPDATED PT/AUDIT

11:01AM 5 RENEWALS SINCE 3/18?

11:01AM 6 A. I SEE IT.

11:01AM 7 Q. AND IT SAYS, "HERE ARE SURVEYS PERFORMED AND SCORES AND

11:01AM 8 UPDATE TO LICENSURES SINCE 3/18."

11:01AM 9 DO YOU SEE THAT?

11:01AM 10 A. YES.

11:02AM 11 Q. AND I'D LIKE TO ASK YOU ABOUT THE ACTUAL TESTING THAT IS

11:02AM 12 LISTED HERE.

11:02AM 13 DO YOU SEE A LIST BELOW OF DATES AND SURVEYS AND SCORES?

11:02AM 14 A. I DO.

11:02AM 15 Q. AND DO YOU UNDERSTAND THESE TO BE PROFICIENCY TESTING

11:02AM 16 RESULTS?

11:02AM 17 A. I DO.

11:02AM 18 Q. ARE THESE REFLECTING PROFICIENCY TESTING RESULTS FOR

11:02AM 19 TESTING PERFORMED ON THE THERANOS EDISON?

11:02AM 20 A. FOR SOME OF THESE THERE'S NO WAY THAT COULD HAVE BEEN THE

11:02AM 21 CASE.

11:02AM 22 Q. WHY DO YOU SAY THAT?

11:02AM 23 A. BECAUSE FOR A LOT OF THESE THERE WERE NO, AT THAT TIME,

11:02AM 24 EDISON TESTS THAT RAN THOSE TESTS.

11:02AM 25 Q. FOR EXAMPLE, WERE YOU -- WHERE IT SAYS API HEMATOLOGY, WAS

11:02AM 1 THE EDISON CAPABLE OF RUNNING ANY HEMATOLOGY TESTS DURING YOUR  
11:02AM 2 TIME AT THE COMPANY?  
11:02AM 3 A. NO.  
11:02AM 4 THAT WOULD ALSO HAVE BEEN TRUE FOR CAP INFECTIOUS DISEASE  
11:02AM 5 SEROLOGY. I ONLY REMEMBER ONE. THOSE ARE GOING TO BE PANELS.  
11:02AM 6 SO WHEN THEY COME, YOU DON'T NECESSARILY KNOW.  
11:03AM 7 THERE MIGHT BE SEVERAL INFECTIOUS DISEASES IN A PANEL LIKE  
11:03AM 8 THAT, AND I ONLY REMEMBER ONE EVER BEING CONSIDERED ON THE  
11:03AM 9 EDISON.  
11:03AM 10 Q. HOW ABOUT SOMETHING LIKE CLINICAL MICROSCOPY? COULD THAT  
11:03AM 11 HAVE RELATED TO THE EDISON?  
11:03AM 12 A. NO.  
11:03AM 13 Q. SITTING HERE TODAY, ARE YOU ABLE TO SEE WHETHER ANY OF  
11:03AM 14 THIS PROFICIENCY TESTING ACTUALLY RELATED TO THE THERANOS  
11:03AM 15 ANALYZER.  
11:03AM 16 A. NO, I CAN'T.  
11:03AM 17 Q. I'D LIKE TO SHOW YOU ANOTHER EXHIBIT THAT YOU DISCUSSED  
11:03AM 18 WITH MR. CAZARES, AND THAT'S NUMBER 20444. I THINK THAT'S IN  
11:04AM 19 VOLUME 2.  
11:04AM 20 THIS WAS PREVIOUSLY ADMITTED.  
11:04AM 21 MAY I PUBLISH, YOUR HONOR?  
11:04AM 22 THE COURT: YES.  
11:04AM 23 BY MR. BOSTIC:  
11:04AM 24 Q. AND, DR. PANDORI, DO YOU SEE TRIAL EXHIBIT 20444 ON THE  
11:04AM 25 SCREEN?

11:04AM 1 A. YES.

11:04AM 2 Q. THE SCREEN FROZE.

11:04AM 3 THE CLERK: SHE HAS IT UP.

11:04AM 4 MR. BOSTIC: OH. EVEN BETTER.

11:04AM 5 Q. LET'S GO TO THE SECOND PAGE OF THIS DOCUMENT, PLEASE.

11:05AM 6 A. I'M THERE.

11:05AM 7 Q. AND LET'S ZOOM IN ON ITEM NUMBER 8.

11:05AM 8 AND DO YOU REMEMBER DISCUSSING THIS LANGUAGE WITH

11:05AM 9 MR. CAZARES?

11:05AM 10 A. YES.

11:05AM 11 Q. IT STATES HERE THAT YOU HAD REVIEWED VALIDATIONS THAT WERE

11:05AM 12 EXCELLENT, BUT THEY WERE MISSING AN ELEMENT, STATING THAT THE

11:05AM 13 TEST WAS SAFE FOR USE ON PEOPLE.

11:05AM 14 DO YOU SEE THAT?

11:05AM 15 A. YES.

11:05AM 16 Q. THE SUBJECT LINE TO THIS EMAIL IS NAAT VALIDATIONS; IS

11:05AM 17 THAT CORRECT?

11:05AM 18 A. YES.

11:05AM 19 Q. DOES THAT RELATE TO A CERTAIN KIND OF ASSAY?

11:05AM 20 A. YES, IT DOES.

11:05AM 21 Q. AND WAS THAT KIND OF TEST RUN ON THE EDISON DEVICE?

11:05AM 22 A. NO, IT WAS NOT.

11:05AM 23 Q. SO THE TEST THAT YOU'RE TALKING ABOUT IN THIS EMAIL WHERE

11:05AM 24 YOU SAY THAT THE VALIDATIONS WERE EXCELLENT, OR WHERE YOU SAY

11:05AM 25 THAT THE TEST IS SAFE FOR PEOPLE, DOES THAT ACTUALLY RELATE TO

11:05AM 1 TESTING DONE ON THE THERANOS ANALYZER THAT YOU WORKED WITH IN  
11:06AM 2 THE LAB?  
11:06AM 3 A. IT DOES NOT.  
11:06AM 4 Q. OKAY. WE CAN SET THAT ASIDE.  
11:06AM 5 I WON'T PUT IT UP RIGHT NOW, BUT DO YOU RECALL IN THE LAST  
11:06AM 6 PORTION OF YOUR CONVERSATION WITH MR. CAZARES LOOKING AT AN  
11:06AM 7 EMAIL FROM YOU TO MR. BALWANI WHERE YOU PRAISED THE CALIBER OF  
11:06AM 8 THE PEOPLE AT THERANOS AND YOU EXPRESSED A POSITIVE ATTITUDE  
11:06AM 9 ABOUT THE COMPANY?  
11:06AM 10 A. YEAH, I REMEMBER THAT.  
11:06AM 11 Q. AND DO YOU RECALL THAT THAT EMAIL WAS FROM RELATIVELY  
11:06AM 12 EARLY ON IN YOUR TIME AT THE COMPANY?  
11:06AM 13 A. YES, I RECALL THAT.  
11:06AM 14 Q. AND DID THAT GENUINELY REFLECT YOUR ATTITUDE ABOUT  
11:06AM 15 THERANOS AT THE TIME?  
11:06AM 16 A. IT DID AT THAT TIME.  
11:06AM 17 Q. DID THAT POSITIVE ATTITUDE ABOUT THE COMPANY CHANGE OVER  
11:06AM 18 THE COURSE OF YOUR EMPLOYMENT AT THERANOS?  
11:06AM 19 A. CAN YOU RESTATE THE QUESTION, PLEASE?  
11:06AM 20 Q. SURE. THE VIEWS THAT YOU EXPRESSED IN THAT EMAIL --  
11:07AM 21 A. YES.  
11:07AM 22 Q. -- WHERE YOU WERE POSITIVE AND HOPEFUL ABOUT THE COMPANY,  
11:07AM 23 DID YOU KEEP FEELING THAT WAY THROUGHOUT YOUR TIME WORKING AT  
11:07AM 24 THERANOS?  
11:07AM 25 A. WELL, THERE WERE TWO EXPRESSIONS THERE. ONE WAS THE

11:07AM 1 CALIBER OF THE PEOPLE, BUT THE OVERALL FEELING OF THE COMPANY.

11:07AM 2 THERE WERE -- I LEFT THERE STILL FEELING THAT THERE WAS A

11:07AM 3 VERY HIGH CALIBER OF PERSONS THAT WERE WORKING THERE, BUT I

11:07AM 4 DIDN'T HAVE A HIGH OPINION OF THE COMPANY OVERALL.

11:07AM 5 Q. IN THAT EMAIL YOU EXPRESSED OPTIMISM ABOUT THE COMPANY'S

11:07AM 6 CHANCE OF SUCCESS.

11:07AM 7 DO YOU RECALL THAT?

11:07AM 8 A. EXCITEMENT.

11:07AM 9 Q. AND DID THAT EXCITEMENT STAY WITH YOU THROUGHOUT YOUR TIME

11:07AM 10 AT THE COMPANY?

11:07AM 11 A. IT DID NOT.

11:07AM 12 Q. OKAY. AND CAN YOU SUMMARIZE WHY NOT?

11:07AM 13 A. WELL, FOR ONE, THE TESTS THAT WERE DEVELOPED AT THERANOS,

11:07AM 14 THE EDISONS DIDN'T WORK VERY WELL.

11:07AM 15 THEY -- IT REQUIRED THAT WE HAVE A LOT OF MACHINES, AND

11:07AM 16 MANY OF THE MACHINES WOULD FAIL REGULARLY, AND THAT'S WHY WE

11:07AM 17 NEEDED A LOT OF MACHINES.

11:08AM 18 THE CHEMISTRIES WERE RUN ON MODIFIED THIRD PARTY DEVICES,

11:08AM 19 THEY WEREN'T RUN ON THERANOS TECHNOLOGY, AND THEY FACED

11:08AM 20 CHALLENGES AS WELL.

11:08AM 21 THE -- WHEN WE, THAT WOULD BE LAB DIRECTORS OR CLIA

11:08AM 22 PERSONNEL, SOUGHT TO DO OUR JOBS AND TO TROUBLESHOOT OR TO

11:08AM 23 MAYBE PUT CERTAIN TESTING ASIDE WHILE WE WORKED ON THEM, WE MET

11:08AM 24 CHALLENGES WITH MANAGEMENT WHEN WE SOUGHT TO DO THAT.

11:08AM 25 AND SO IT DIDN'T FEEL LIKE A VERY GOOD PLACE TO ME. I

11:08AM 1 WANTED THIS TO BE -- I THOUGHT THIS WAS SOMETHING MORE MATURE  
11:08AM 2 IN ASSISTING THE PUBLIC'S HEALTH AND IT WAS FAR FROM THAT.  
11:08AM 3 Q. I WOULD LIKE TO TALK NOW ABOUT THE DAYS LEADING UP TO YOUR  
11:08AM 4 DEPARTURE FROM THE COMPANY.  
11:08AM 5 FIRST, JUST SO WE'RE CLEAR, DO YOU RECALL CONVERSATIONS  
11:08AM 6 ABOUT A MEETING THAT YOU HAD WITH MR. BALWANI AND MS. HOLMES  
11:08AM 7 WHERE YOU SUGGESTED MEETINGS SO THAT MS. HOLMES COULD MAKE  
11:09AM 8 SURE, FOR EXAMPLE, THAT SHE WAS PROVIDING ACCURATE INFORMATION  
11:09AM 9 ABOUT THE COMPANY?  
11:09AM 10 A. YES, I RECALL.  
11:09AM 11 Q. AND DO YOU KNOW EXACTLY WHEN THAT MEETING HAPPENED SITTING  
11:09AM 12 HERE TODAY?  
11:09AM 13 A. NO.  
11:09AM 14 Q. YOU TESTIFIED EARLIER THAT IT WAS SOMETIME AROUND YOUR  
11:09AM 15 BIRTHDAY.  
11:09AM 16 A. YES.  
11:09AM 17 Q. YOU TESTIFIED THAT YOU RESIGNED VERY SHORTLY AFTER THAT  
11:09AM 18 MEETING.  
11:09AM 19 IS THAT STILL YOUR TESTIMONY?  
11:09AM 20 A. YES.  
11:09AM 21 Q. AND WHEN YOU RESIGNED, DID YOU WALK OUT OF THE BUILDING  
11:09AM 22 IMMEDIATELY THAT DAY, OR WAS THAT YOU GIVING YOUR TWO WEEK  
11:09AM 23 NOTICE, OR SOMETHING ELSE?  
11:09AM 24 A. MY RECOLLECTION IS THAT I HAD A CONVERSATION WITH  
11:09AM 25 MONA RAMAMURTHY WHEREUPON SHE -- WELL, I DON'T REMEMBER THE

11:09AM 1 EXACT NATURE OF THAT.

11:09AM 2 AND I REMEMBER GOING TO -- EXITING THROUGH THE SECURITY

11:09AM 3 OFFICE AND TALKING TO SOMEBODY NAMED EDGAR, AND THEN I REMEMBER

11:10AM 4 HE EITHER COMING OUTSIDE WITH ME OR WALKING ME ALL OF THE WAY,

11:10AM 5 I'M NOT SURE I REMEMBER, TO MY CAR.

11:10AM 6 AND HE SAID TO ME, SUNNY CALLED DOWN AND SAID I HAVE TO

11:10AM 7 SEARCH YOUR CAR.

11:10AM 8 AND I SAID, YOU DON'T HAVE TO SEARCH MY CAR, EDGAR.

11:10AM 9 AND HE SAID, YOU'RE RIGHT, I DON'T HAVE TO SEARCH YOUR

11:10AM 10 CARE.

11:10AM 11 AND I LEFT.

11:10AM 12 Q. SO THAT MOMENT STANDS OUT IN YOUR MIND?

11:10AM 13 A. YEAH.

11:10AM 14 Q. AND DO YOU HAVE A MEMORY ONE WAY OR ANOTHER OF WHETHER

11:10AM 15 THAT HAPPENED ON THE SAME DAY AS YOUR MEETING WITH MR. BALWANI

11:10AM 16 AND MS. HOLMES, OR A WEEK LATER? CAN YOU TELL US ONE WAY OR

11:10AM 17 ANOTHER?

11:10AM 18 A. I RECALL IT HAPPENING THE SAME DAY.

11:10AM 19 Q. THERE WAS DISCUSSION WITH MR. CAZARES ABOUT THE "WIRED"

11:10AM 20 ARTICLE AS WELL WHERE YOU SAW SOME INACCURATE OR MISLEADING

11:10AM 21 STATEMENTS.

11:10AM 22 DO YOU RECALL THAT?

11:10AM 23 A. I RECALL.

11:10AM 24 Q. AND MR. CAZARES ASKED YOU WHETHER YOU HAD IN FACT RECEIVED

11:10AM 25 THAT ARTICLE IN FEBRUARY OF 2014; IS THAT RIGHT?

11:10AM 1 A. HE DID.

11:10AM 2 Q. AND I'LL ASK YOU TO TURN TO -- OR ACTUALLY LET'S PROJECT

11:10AM 3 EXHIBIT 1599, WHICH IS THAT ARTICLE. THIS WAS PREVIOUSLY

11:11AM 4 ADMITTED.

11:11AM 5 ACTUALLY, NO, LET'S TAKE THAT DOWN. I'M SORRY?

11:11AM 6 MR. CAZARES: THAT'S NOT IN EVIDENCE.

11:11AM 7 MR. BOSTIC: IT'S NOT IN EVIDENCE.

11:11AM 8 Q. DR. PANDORI, APOLOGIES.

11:11AM 9 IF I COULD ASK YOU TO TURN TO EXHIBIT 1599. AND THAT'S

11:11AM 10 IN --

11:11AM 11 A. DO YOU KNOW WHAT VOLUME THAT IS IN?

11:11AM 12 Q. THAT'S IN THE WHITE BINDER, THE GOVERNMENT BINDER.

11:11AM 13 A. OKAY. I'M THERE.

11:11AM 14 Q. AND WE WERE JUST TALKING ABOUT MR. CAZARES'S QUESTIONS TO

11:11AM 15 YOU ABOUT WHETHER YOU HAD RECEIVED THAT ARTICLE IN FEBRUARY OF

11:11AM 16 2014.

11:11AM 17 DO YOU REMEMBER THAT DISCUSSION?

11:11AM 18 A. YES, I REMEMBER THAT DISCUSSION.

11:11AM 19 Q. LOOKING AT EXHIBIT 1599, IS THERE A DATE INDICATED ON THAT

11:11AM 20 ARTICLE?

11:11AM 21 A. YES.

11:11AM 22 Q. AND WHAT IS THE DATE ON THE ARTICLE?

11:11AM 23 A. MARCH 2014.

11:11AM 24 Q. MR. CAZARES SHOWED YOU AN EMAIL WITH A LINK TO A "WIRED"

11:11AM 25 ARTICLE.

11:11AM 1 DO YOU REMEMBER THAT?

11:11AM 2 A. YES.

11:11AM 3 Q. AND DO YOU KNOW WHETHER THAT LINK WAS TO THE ACTUAL

11:12AM 4 ARTICLE THAT WE HAVE BEEN TALKING ABOUT?

11:12AM 5 A. NO, I DON'T KNOW THE ANSWER TO THAT QUESTION.

11:12AM 6 Q. ASSUMING THAT IT WAS AND THE LINK WAS EMAILED TO YOU IN

11:12AM 7 FEBRUARY, DO YOU HAVE A MEMORY OF WHETHER YOU READ THE ARTICLE

11:12AM 8 ON THE DAY THAT YOU RECEIVED IT OR SOMETIME LATER? DO YOU KNOW

11:12AM 9 THAT?

11:12AM 10 A. NO, I DON'T KNOW THAT.

11:12AM 11 Q. I'D LIKE TO TALK TO YOU ABOUT EXHIBIT 20277.

11:12AM 12 MS. WACHS, DO WE HAVE THAT ACCESSIBLE ELECTRONICALLY?

11:12AM 13 AND THIS WAS PREVIOUSLY ADMITTED.

11:12AM 14 A. OKAY.

11:12AM 15 Q. AND LET'S ZOOM IN ON THE TEXT OF YOUR EMAIL IN THE MIDDLE

11:12AM 16 OF THE PAGE, JUST THE FIRST FEW PARAGRAPHS.

11:12AM 17 DO YOU REMEMBER READING THIS WITH MR. CAZARES?

11:13AM 18 A. YES.

11:13AM 19 Q. AND YOU WRITE, "ADAM AND I WERE ABLE TO DISCUSS WITH ONE

11:13AM 20 ANOTHER THE RESULTS OF OUR ONE ON ONE CONVERSATIONS WITH EACH

11:13AM 21 OF YOU, AND ONE OF EVERYONE'S PRIMARY CONCERN IS WORK HOURS."

11:13AM 22 DO YOU SEE THAT?

11:13AM 23 A. YES.

11:13AM 24 Q. MR. CAZARES POINTED OUT THAT THIS EMAIL DOES NOT MENTION

11:13AM 25 ANY CONCERN ABOUT THE ACCURACY OR RELIABILITY OF THE DEVICES;

11:13AM 1 IS THAT RIGHT?

11:13AM 2 A. CORRECT.

11:13AM 3 Q. WHEN YOU WERE AT THERANOS, DID OTHER STAFF IN THE CLIA LAB

11:13AM 4 EXPRESS CONCERNS TO YOU ABOUT THE ACCURACY OR THE RELIABILITY

11:13AM 5 OF THE EDISON DEVICES?

11:13AM 6 MR. CAZARES: OBJECTION. HEARSAY.

11:13AM 7 MR. BOSTIC: THE DEFENSE OPENED THE DOOR TO THIS,

11:13AM 8 YOUR HONOR.

11:13AM 9 MR. CAZARES: IT'S STILL HEARSAY.

11:13AM 10 THE COURT: IS THIS A YES OR NO ANSWER?

11:13AM 11 MR. BOSTIC: YES, YOUR HONOR, FOR NOW.

11:13AM 12 THE COURT: OVERRULED.

11:13AM 13 YOU CAN ANSWER YES OR NO.

11:13AM 14 THE WITNESS: YES.

11:13AM 15 BY MR. BOSTIC:

11:13AM 16 Q. AND WAS THAT SOMETHING THAT HAPPENED ON MULTIPLE

11:13AM 17 OCCASIONS?

11:13AM 18 MR. CAZARES: SAME OBJECTION.

11:13AM 19 THE COURT: OVERRULED.

11:14AM 20 YES OR NO?

11:14AM 21 THE WITNESS: YES.

11:14AM 22 BY MR. BOSTIC:

11:14AM 23 Q. IN THE EMAIL YOU WRITE, "ONE OF EVERYONE'S PRIMARY

11:14AM 24 CONCERNS IS WORK HOURS."

11:14AM 25 WHEN YOU WROTE THAT, DID YOU MEAN TO IMPLY THAT NO ONE HAD

11:14AM 1 ANY CONCERNS ABOUT ACCURACY OR RELIABILITY?

11:14AM 2 A. NO, I DIDN'T MEAN TO IMPLY THAT.

11:14AM 3 Q. OF THE INDIVIDUALS WHO EXPRESSED CONCERNS TO YOU ABOUT

11:14AM 4 ACCURACY AND RELIABILITY, WAS ERIKA CHEUNG ONE OF THEM?

11:14AM 5 MR. CAZARES: OBJECTION. IT CALLS FOR HEARSAY.

11:14AM 6 THE COURT: SUSTAINED.

11:14AM 7 BY MR. BOSTIC:

11:14AM 8 Q. LET'S TALK ABOUT THE TRANSITION MEMO THAT YOU REVIEWED

11:14AM 9 WITH MR. CAZARES.

11:14AM 10 WE CAN TAKE THIS EXHIBIT DOWN.

11:14AM 11 AND CAN WE PUT UP EXHIBIT 20279.

11:14AM 12 DR. PANDORI, DO YOU REMEMBER REVIEWING THIS EXHIBIT WITH

11:15AM 13 MR. CAZARES?

11:15AM 14 A. I DO.

11:15AM 15 Q. SITTING HERE TODAY, DO YOU HAVE A MEMORY OF WRITING THE

11:15AM 16 TRANSITION MEMO THAT WE'VE BEEN DISCUSSING?

11:15AM 17 A. I DON'T HAVE A MEMORY OF IT.

11:15AM 18 Q. YOU WERE ALSO SHOWN EXHIBIT 20498.

11:15AM 19 CAN WE PUT THAT ONE UP, MS. WACHS.

11:15AM 20 DR. PANDORI, YOU SEE THAT THIS IS AN EMAIL THAT ACTUALLY

11:15AM 21 HAS A FROM LINE THAT INDICATES THAT THE EMAIL IS FROM YOU.

11:15AM 22 DO YOU SEE THAT?

11:15AM 23 A. YES.

11:15AM 24 Q. THE PREVIOUS EXHIBIT THAT WE LOOKED AT, 20279, LACKED A

11:15AM 25 FROM LINE; IS THAT CORRECT?

11:15AM 1 A. CORRECT.

11:15AM 2 Q. DID MR. CAZARES SHOW YOU THIS EXHIBIT BEFORE HE ASKED YOU

11:15AM 3 ABOUT WHETHER YOU HAD WRITTEN THE TRANSITION MEMO?

11:15AM 4 A. NO, THAT'S NOT THE ORDER OF THINGS.

11:16AM 5 Q. WOULD IT HAVE BEEN HELPFUL TO YOUR RECOLLECTION OF THINGS

11:16AM 6 TO HAVE SEEN THIS EMAIL BEFORE YOU WERE ASKED ABOUT THAT FIRST

11:16AM 7 EMAIL WITH NO FROM LINE?

11:16AM 8 A. TO SEE THIS EMAIL WITHOUT HAVING SEEN THE TRANSITION

11:16AM 9 DOCUMENT?

11:16AM 10 Q. DO YOU SEE THAT THIS EMAIL ATTACHES AN ATTACHMENT

11:16AM 11 INDICATING THAT IT IS THE TRANSITION MEMO?

11:16AM 12 A. YES.

11:16AM 13 Q. AND WOULD HAVING SEEN THIS EXHIBIT FIRST HAVE BEEN HELPFUL

11:16AM 14 TO YOU?

11:16AM 15 A. IF IT INCLUDE -- NO -- PERHAPS.

11:16AM 16 Q. DOES SEEING THIS EXHIBIT HELP YOUR UNDERSTANDING AS FAR AS

11:16AM 17 WHETHER OR NOT YOU SENT THIS EMAIL?

11:16AM 18 A. DOES IT -- IT HAS A FROM LINE, WHICH MAKES ME FEEL MORE

11:16AM 19 INCLINED THAT I DID.

11:16AM 20 Q. AND IN THIS EXHIBIT IN PARTICULAR, YOU SEND THE TRANSITION

11:17AM 21 REPORT TO MONA RAMAMURTHY AND SUNNY BALWANI; IS THAT CORRECT?

11:17AM 22 A. YES.

11:17AM 23 Q. LET'S LOOK AT THE TEXT OF THAT MEMO ITSELF. IF WE CAN

11:17AM 24 FLIP FORWARD THROUGH THE DOCUMENT.

11:17AM 25 LET'S GO TO -- KEEP GOING. WE'RE LOOKING FOR THE SECTION

11:17AM 1 ON EDISONS, WHICH I THINK IS ON PAGE 6. THERE WE GO.

11:17AM 2 OKAY. DO YOU SEE UNDER OTHER NOTES THERE'S A SECTION ON

11:17AM 3 EDISONS?

11:17AM 4 A. YES.

11:17AM 5 Q. AND IT SAYS HERE, "THE PRIMARY CONCERN IN THIS SECTION IS

11:17AM 6 THE AVAILABLE NUMBER OF DEVICES."

11:17AM 7 DO YOU SEE THAT?

11:17AM 8 A. YES.

11:17AM 9 Q. ARE YOU GENERALLY FAMILIAR WITH THE CONCEPT OF A

11:17AM 10 TRANSITION MEMO?

11:17AM 11 A. YES.

11:17AM 12 Q. IN THIS CASE, WHAT WOULD THE GOAL HAVE BEEN IN WRITING

11:18AM 13 THIS MEMO DURING THE TIME THAT YOU WERE LEAVING THE COMPANY?

11:18AM 14 MR. CAZARES: OBJECTION. FOUNDATION. CALLS FOR

11:18AM 15 SPECULATION BASED ON THE WITNESS'S TESTIMONY ALREADY.

11:18AM 16 THE COURT: REGARDING WHETHER HE WROTE IT OR NOT? I

11:18AM 17 THINK THERE'S A FOUNDATION.

11:18AM 18 SUSTAINED.

11:18AM 19 BY MR. BOSTIC:

11:18AM 20 Q. LET'S LOOK INSTEAD AT 20496.

11:18AM 21 DR. PANDORI, DO YOU REMEMBER DISCUSSING THIS EXHIBIT WITH

11:18AM 22 MR. CAZARES?

11:18AM 23 A. YES.

11:18AM 24 Q. AND IS THIS AN EMAIL FROM MS. RAMAMURTHY ASKING FOR A

11:18AM 25 TRANSITION MEMO?

11:18AM 1 A. IT'S ASKING ME FOR SOME INFORMATION ABOUT THE LAB.

11:18AM 2 Q. OKAY. AND DID THE TRANSITION MEMO THAT WE LOOKED AT

11:18AM 3 SATISFY THIS REQUEST?

11:19AM 4 A. YES.

11:19AM 5 Q. AND MR. CAZARES POINTED OUT THAT THIS ASKS FOR ANYTHING

11:19AM 6 ELSE THAT YOU BELIEVE NEEDS TO BE DOCUMENTED FOR EFFECTIVE

11:19AM 7 TRANSITION PURPOSES.

11:19AM 8 DO YOU SEE THAT?

11:19AM 9 A. I DO.

11:19AM 10 Q. FOR EFFECTIVE TRANSITION PURPOSES IN THE SITUATION THAT

11:19AM 11 YOU WERE IN, WHY DID YOU DECIDE NOT TO DOCUMENT THE CONCERNS

11:19AM 12 THAT YOU HAD ABOUT THE ACCURACY AND RELIABILITY OF THERANOS

11:19AM 13 TESTING?

11:19AM 14 MR. CAZARES: OBJECTION. SPECULATION. IT CALLS FOR

11:19AM 15 SPECULATION BASED ON THE WITNESS'S TESTIMONY ALREADY.

11:19AM 16 THE COURT: OVERRULED.

11:19AM 17 YOU CAN ANSWER THE QUESTION.

11:19AM 18 BY MR. BOSTIC:

11:19AM 19 Q. WOULD YOU LIKE THE QUESTION AGAIN, DOCTOR?

11:19AM 20 A. NO. I HAD ALREADY MADE MY CONCERNS KNOWN AT THAT TIME,

11:19AM 21 AND WHAT I WANTED TO HAVE DONE, NOBODY WAS GOING TO DO THAT, SO

11:19AM 22 WHAT POINT WAS THERE TO PUSH THIS FURTHER.

11:19AM 23 THERE WAS NO -- I DIDN'T HAVE THE AUTHORITY TO MAKE THAT

11:19AM 24 DECISION. ASKING REPEATEDLY WOULD BE SOMEWHAT AKIN TO HITTING

11:19AM 25 YOUR HEAD AGAINST THE WALL.

11:19AM 1 Q. AND WE SAW A FEW MINUTES AGO THAT THIS TRANSITION MEMO WAS  
11:20AM 2 SENT TO MR. BALWANI; IS THAT CORRECT?  
11:20AM 3 A. IN ADDITION TO MS. MONA RAMAMURTHY, I BELIEVE.  
11:20AM 4 Q. AND YOU SAID THAT YOU HAD PREVIOUSLY RAISED YOUR CONCERNS.  
11:20AM 5 HAD YOU SPECIFICALLY RAISED THOSE CONCERNS TO MR. BALWANI  
11:20AM 6 HIMSELF?  
11:20AM 7 A. YES.  
11:20AM 8 Q. AND WE ALSO SAW AN INSTANCE WHERE THE TRANSITION MEMO WAS  
11:20AM 9 SENT TO DR. ROSENDORFF; IS THAT CORRECT?  
11:20AM 10 A. CORRECT.  
11:20AM 11 Q. AND AT THAT POINT HAD YOU ALREADY RAISED YOUR CONCERNS TO  
11:20AM 12 DR. ROSENDORFF?  
11:20AM 13 A. ON MANY OCCASIONS.  
11:20AM 14 Q. DESCRIBE THAT. HOW FREQUENTLY DID YOU HAVE THESE  
11:20AM 15 CONVERSATIONS AND HOW DID THAT TOPIC COME UP?  
11:20AM 16 A. MORE THAN ONCE PER WEEK, AND IT CAME UP BECAUSE IT WAS A  
11:20AM 17 NORMAL COURSE OF CONVERSATION BETWEEN DR. ROSENDORFF AND  
11:20AM 18 MYSELF.  
11:20AM 19 Q. AND WHEN WE'RE TALKING ABOUT THIS SUBJECT, WHAT DO YOU  
11:20AM 20 MEAN SPECIFICALLY? WHAT ISSUES WERE BEING DISCUSSED ON A  
11:20AM 21 REGULAR OCCASION WITH DR. ROSENDORFF?  
11:20AM 22 A. THE QUALITY OF THE MACHINERY AND THE QUALITY OF LAB  
11:21AM 23 TESTING AT NORMANDY.  
11:21AM 24 Q. SO FOR THIS TRANSITION MEMO, IF IT WAS FOR  
11:21AM 25 DR. ROSENDORFF'S BENEFIT, WOULD THERE HAVE BEEN ANY NEED TO

11:21AM 1 INCLUDE THOSE CONCERNS IN THE TRANSITION MEMO?

11:21AM 2 MR. CAZARES: OBJECTION. CALLS FOR SPECULATION AND

11:21AM 3 FOUNDATION.

11:21AM 4 THE COURT: ARE YOU ASKING IF HE SENT THIS TO

11:21AM 5 DR. ROSENDORFF?

11:21AM 6 MR. BOSTIC: NO. I'M ASKING HIM ABOUT HIS PREVIOUS

11:21AM 7 CONVERSATIONS AND WHETHER ADDITIONAL DETAIL WOULD HAVE BEEN

11:21AM 8 NECESSARY.

11:21AM 9 MR. CAZARES: AGAIN, IT CALLS FOR FOUNDATION AND

11:21AM 10 SPECULATION BASED ON HIS TESTIMONY ABOUT THE MEMO.

11:21AM 11 THE COURT: I'LL SUSTAIN THE OBJECTION TO THAT

11:21AM 12 QUESTION.

11:21AM 13 BY MR. BOSTIC:

11:22AM 14 Q. LET'S GO BACK TO THAT MEMO ITSELF.

11:22AM 15 SO IF WE CAN LOOK AT 20279 AND GO BACK TO THE SECTION ON

11:22AM 16 EDISONS, WHICH I THINK IS PAGE 6.

11:22AM 17 AND, DR. PANDORI, IN THIS SECTION YOU MENTION A NEED FOR

11:22AM 18 MORE UNITS; IS THAT CORRECT?

11:22AM 19 A. CORRECT.

11:22AM 20 Q. AND WE SAW OTHER INSTANCES WHERE YOU RECOMMENDED THAT THE

11:22AM 21 LAB OBTAIN AND USE MORE EDISON ANALYZERS; IS THAT RIGHT?

11:22AM 22 A. THAT'S CORRECT.

11:22AM 23 Q. AND WHY WAS THAT YOUR RECOMMENDATION IF YOU HAD CONCERNS

11:22AM 24 ABOUT THE ACCURACY AND RELIABILITY OF THE EDISONS?

11:22AM 25 A. WELL, WE DIDN'T FULLY UNDERSTAND THE NATURE OF THE TROUBLE

11:22AM 1 WITH THE INSTRUMENT. THAT WAS STILL BEING ASCERTAINED.

11:22AM 2 BUT SOME OF THEM WOULD PASS QUALITY CONTROL, AND SO IF YOU

11:22AM 3 WANTED TO GET PATIENT SPECIMENS DONE, YOU COULD TEST A WIDER

11:23AM 4 NUMBER OF INSTRUMENTS AND SEE WHICH ONCE WERE FUNCTIONING

11:23AM 5 CORRECTLY.

11:23AM 6 Q. WE TALKED EARLIER ABOUT HOW MANY EDISONS WERE REQUIRED TO

11:23AM 7 RUN A PATIENT SAMPLE.

11:23AM 8 DO YOU RECALL THAT?

11:23AM 9 A. YES.

11:23AM 10 Q. HOW MANY EDISONS WERE NEEDED IN A GROUP TO RUN A SINGLE

11:23AM 11 PATIENT ASSAY?

11:23AM 12 A. WELL, IT DEPENDS IF I ANSWER ON AVERAGE. BUT ONE EDISON,

11:23AM 13 IF IT WAS WORKING CORRECTLY, COULD TEST ONE PATIENT SAMPLE.

11:23AM 14 Q. ARE YOU AWARE OF A PRACTICE AT THERANOS WHERE DEVICES WERE

11:23AM 15 USED IN GROUPS OF THREE AND THEN SAMPLES, SAMPLE RESULTS WERE

11:23AM 16 AVERAGED OUT?

11:23AM 17 A. YES.

11:23AM 18 Q. DID THAT NEED, THE NEED TO RUN SAMPLES IN GROUPS OF THREE,

11:23AM 19 INCREASE THE NEED FOR ADDITIONAL EDISONS?

11:23AM 20 A. YES.

11:24AM 21 Q. DO YOU REMEMBER BEING SHOWN AN EMAIL BY MR. CAZARES WHERE

11:24AM 22 MR. BALWANI TOLD YOU THAT INVOLVEMENT OF THE PRODUCT MANAGEMENT

11:24AM 23 TEAM SHOULD BE ON YOUR TERMS?

11:24AM 24 A. YES.

11:24AM 25 Q. AND WAS THAT HOW IT ENDED UP WORKING DURING YOUR TIME AT

11:24AM 1 THERANOS?

11:24AM 2 A. NO.

11:24AM 3 Q. AND HOW DID IT ACTUALLY WORK AT THERANOS?

11:24AM 4 A. FOR THE ENTIRETY OF MY TIME AT THERANOS, PRODUCT

11:24AM 5 MANAGEMENT TEAM MEMBERS HAD A SIGNIFICANT INFLUENCE IN ALL

11:24AM 6 MATTERS THAT I ENGAGED IN.

11:24AM 7 Q. INCLUDING CLINICAL MATTERS?

11:24AM 8 A. YES.

11:24AM 9 Q. AND WHO DID THE PRODUCT MANAGEMENT TEAM REPORT TO?

11:24AM 10 A. I DON'T REMEMBER THEIR STRUCTURE EXACTLY. I BELIEVED IT

11:24AM 11 WAS SUNNY BALWANI.

11:24AM 12 Q. DO YOU RECALL TESTIFYING ABOUT A TIME WHERE MR. BALWANI

11:24AM 13 CAME TO YOUR OFFICE TO CONFRONT YOU ABOUT YOUR VIEWS ON THE

11:24AM 14 EDISON?

11:24AM 15 A. YES.

11:24AM 16 Q. AND CAN YOU REMIND US WHO ACCOMPANIED HIM WHEN HE CAME TO

11:24AM 17 YOUR OFFICE TO DISCUSS THAT?

11:25AM 18 A. TWO PRODUCT MANAGERS.

11:25AM 19 Q. DO YOU RECALL, DURING CROSS-EXAMINATION, TALKING WITH

11:25AM 20 MR. CAZARES ABOUT CLIA REGULATIONS AND WHAT THEY SAY ABOUT THE

11:25AM 21 ROLE OF LAB DIRECTOR?

11:25AM 22 A. YES.

11:25AM 23 Q. AND WOULD YOU AGREE THAT CLIA REGULATIONS IN GENERAL SAY

11:25AM 24 THAT THE LAB DIRECTOR HAS A LOT OF AUTHORITY?

11:25AM 25 A. YES.

11:25AM 1 Q. AND THAT THE LAB DIRECTOR IS RESPONSIBLE FOR A NUMBER OF  
11:25AM 2 THINGS WITHIN THE LAB, INCLUDING THE QUALITY OF THE RESULTS?  
11:25AM 3 A. YES.  
11:25AM 4 Q. TO DO THAT JOB, DOES A LAB DIRECTOR NEED TO HAVE AUTONOMY  
11:25AM 5 AND AUTHORITY?  
11:25AM 6 MR. CAZARES: OBJECTION. CALLS FOR SPECULATION.  
11:25AM 7 FOUNDATION.  
11:25AM 8 MR. BOSTIC: I'M ASKING HIM ABOUT HIS JOB,  
11:25AM 9 YOUR HONOR.  
11:25AM 10 THE COURT: OVERRULED.  
11:25AM 11 THE WITNESS: YOU KNOW, A LAB DIRECTOR NEEDS TO HAVE  
11:25AM 12 THE AUTHORITY TO MAKE A LOT OF DIFFERENT DECISIONS IN ORDER TO  
11:25AM 13 PERFORM THAT JOB CORRECTLY.  
11:25AM 14 BY MR. BOSTIC:  
11:25AM 15 Q. AND AS LAB DIRECTOR AT THERANOS, DID MR. BALWANI AND  
11:25AM 16 MS. HOLMES GIVE YOU THE LEVEL OF AUTHORITY THAT YOU NEEDED TO  
11:26AM 17 ACT EFFECTIVELY AS A LAB DIRECTOR?  
11:26AM 18 MR. CAZARES: OBJECTION. THE LAB DIRECTOR?  
11:26AM 19 FOUNDATION, SPECULATION, AND ACTUALLY 403.  
11:26AM 20 THE COURT: THIS IS RELATED TO HIS JOB?  
11:26AM 21 MR. BOSTIC: YES, YOUR HONOR.  
11:26AM 22 THE COURT: HIS OPINION OF HIS JOB?  
11:26AM 23 MR. BOSTIC: YES, YOUR HONOR.  
11:26AM 24 THE COURT: OVERRULED.  
11:26AM 25 BY MR. BOSTIC:

11:26AM 1 Q. I'LL ASK YOU THE QUESTION AGAIN, DR. PANDORI, AND THAT  
11:26AM 2 QUESTION IS -- FIRST OF ALL, CAN YOU REMIND US, WHAT WAS YOUR  
11:26AM 3 JOB TITLE AND ROLE AT THERANOS?  
11:26AM 4 A. THE JOB TITLE WAS LABORATORY DIRECTOR.  
11:26AM 5 THE ROLE WAS MORE OF A LOGISTICAL ASSISTANT DIRECTOR.  
11:26AM 6 Q. AND WE TALKED ABOUT WHAT THE REGULATIONS SAY ON PAPER  
11:26AM 7 ABOUT THE LAB DIRECTOR ROLE; CORRECT?  
11:26AM 8 A. WE TALKED ABOUT THAT.  
11:26AM 9 Q. AND MY QUESTION NOW IS, DID MR. BALWANI AND MS. HOLMES  
11:26AM 10 GIVE YOU AND DR. ROSENDORFF THE AUTHORITY AND POWER YOU NEEDED  
11:26AM 11 IN THE COMPANY TO DO THAT JOB CORRECTLY?  
11:26AM 12 MR. CAZARES: OBJECTION. 403, FOUNDATION, CALLS FOR  
11:26AM 13 SPECULATION.  
11:26AM 14 THE COURT: OVERRULED.  
11:26AM 15 THE WITNESS: NOT IN MY OPINION.  
11:27AM 16 BY MR. BOSTIC:  
11:27AM 17 Q. AND WHY DO YOU SAY THAT?  
11:27AM 18 A. BECAUSE CERTAIN THINGS THAT I FELT THAT WE NEEDED TO DO IN  
11:27AM 19 FURTHERANCE OF PATIENT SAFETY AND QUALITY, I DIDN'T HAVE THE  
11:27AM 20 AUTHORITY TO MAKE THOSE DECISIONS.  
11:27AM 21 Q. AND ARE THOSE THE THINGS THAT WE HAVE BEEN DISCUSSING  
11:27AM 22 THROUGHOUT YOUR TESTIMONY?  
11:27AM 23 A. YES.  
11:27AM 24 MR. BOSTIC: MAY I HAVE A MOMENT, YOUR HONOR?  
11:27AM 25 THE COURT: YES.

11:27AM 1 (DISCUSSION AMONGST GOVERNMENT COUNSEL OFF THE RECORD.)

11:27AM 2 MR. BOSTIC: NO FURTHER QUESTIONS.

11:27AM 3 THANK YOU, DR. PANDORI.

11:27AM 4 YOU CAN TAKE THAT DOWN.

11:27AM 5 THE COURT: DO YOU HAVE RECROSS?

11:27AM 6 MR. CAZARES: I DO, YOUR HONOR.

11:27AM 7 THE COURT: ALL RIGHT. LET'S TAKE OUR BREAK, LADIES

11:27AM 8 AND GENTLEMEN, AND THEN WE'LL CONTINUE WITH DR. PANDORI.

11:27AM 9 THANK YOU.

11:27AM 10 (RECESS FROM 11:27 A.M. UNTIL 12:10 P.M.)

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12:10PM	1	<b>AFTERNOON SESSION</b>
12:10PM	2	(JURY IN AT 12:10 P.M.)
12:10PM	3	THE COURT: ALL COUNSEL ARE PRESENT.
12:10PM	4	THE JURY AND ALTERNATES ARE PRESENT.
12:11PM	5	DR. PANDORI IS BACK ON THE STAND.
12:11PM	6	YOU HAVE RECROSS?
12:11PM	7	MR. CAZARES: A LITTLE BIT, YOUR HONOR. THANK YOU.
12:11PM	8	THE COURT: ALL RIGHT.
12:11PM	9	<b>RECROSS-EXAMINATION</b>
12:11PM	10	BY MR. CAZARES:
12:11PM	11	Q. DR. PANDORI, YOU WERE ASKED ON REDIRECT ABOUT THE EMAIL
12:11PM	12	THAT IS REFLECTED IN EXHIBIT 20548, WHICH IS IN EVIDENCE.
12:11PM	13	CAN WE PUT THAT UP ON THE SCREEN.
12:11PM	14	A. I SEE IT.
12:11PM	15	Q. OKAY. AND YOU RECALL THE MESSAGE AT THE LOWER PORTION OF
12:11PM	16	THE EXHIBIT FROM DANIEL YOUNG, THAT'S DR. YOUNG, WHO YOU'RE
12:11PM	17	FAMILIAR WITH; CORRECT?
12:11PM	18	A. CORRECT.
12:11PM	19	Q. AND THAT'S FEBRUARY 20, 2014.
12:11PM	20	DO YOU SEE THE DATE?
12:11PM	21	A. I SEE IT.
12:11PM	22	Q. AND THEN THERE'S A LINK TO AN INTERNET "WIRED" ARTICLE AND
12:11PM	23	THE DOCUMENT REFLECTS ELIZABETH HOLMES - THERANOS.
12:12PM	24	DO YOU SEE THAT?
12:12PM	25	A. I DO.

12:12PM 1 Q. AND IT APPEARS SOMEONE FORWARDED THAT MESSAGE, A  
12:12PM 2 SWAPNA JOSHI.  
12:12PM 3 YOU KNOW WHO DR. JOSHI IS; CORRECT?  
12:12PM 4 A. NO, I DON'T.  
12:12PM 5 Q. SOMEONE THAT WORKED AT THERANOS?  
12:12PM 6 A. IT APPEARS SO.  
12:12PM 7 Q. AND THE MESSAGE WAS SENT TO YOU ON FEBRUARY 27TH, 2014.  
12:12PM 8 DO YOU SEE THAT?  
12:12PM 9 A. YES.  
12:12PM 10 Q. AND EMBEDDED IN THAT MESSAGE IS THE LINK TO THE "WIRED"  
12:12PM 11 ARTICLE.  
12:12PM 12 DO YOU SEE THAT?  
12:12PM 13 A. YES.  
12:12PM 14 Q. AND YOU'RE AWARE OF THE FACT THAT "WIRED" ISSUES ITS  
12:12PM 15 ARTICLES ONLINE BEFORE IT ACTUALLY MAKES AVAILABLE THE HARD  
12:12PM 16 COPY MAGAZINES ON NEWS STANDS; CORRECT?  
12:12PM 17 A. I'M NOT AWARE OF THAT FACT.  
12:12PM 18 Q. YOU CAN TAKE THAT DOWN, MR. ALLEN.  
12:12PM 19 YOU WERE ASKED SOME QUESTIONS BY MR. BOSTIC ON REDIRECT  
12:12PM 20 RELATING TO, AGAIN, THE NEW YORK PROFICIENCY SAMPLE EXPERIMENT  
12:13PM 21 THAT WAS DONE IN FEBRUARY OF 2014.  
12:13PM 22 DO YOU RECALL THAT?  
12:13PM 23 A. WAS IT A SPREADSHEET?  
12:13PM 24 Q. THE SPREADSHEET AND THE EXPERIMENT UNDERLYING THE  
12:13PM 25 EXPERIMENT.

12:13PM 1 DO YOU RECALL THAT?

12:13PM 2 A. OH, I RECALL THAT.

12:13PM 3 Q. AND THAT WAS IN FEBRUARY OF 2014; CORRECT?

12:13PM 4 A. I THINK SO. YOU'D HAVE TO SHOW ME THE DATE AGAIN.

12:13PM 5 Q. AND YOU TESTIFIED THAT YOU WERE THE PERSON WHO CAME UP

12:13PM 6 WITH THE IDEA TO DO THAT EXPERIMENT; CORRECT?

12:13PM 7 A. THAT'S MY UNDERSTANDING.

12:13PM 8 Q. AND AT THE TIME THAT YOU CAME UP WITH THAT IDEA, YOU WERE

12:13PM 9 UNAWARE OF THE FACT THAT DR. ROSENDORFF HAD ALREADY

12:13PM 10 IMPLEMENTED, VALIDATED, SIGNED OFF ON A STANDARD OPERATING

12:13PM 11 PROCEDURE TO PERFORM AAP ON THERANOS EDISON DEVICES; CORRECT?

12:13PM 12 MR. BOSTIC: OBJECTION. VAGUE. COMPOUND.

12:13PM 13 THE COURT: DID YOU UNDERSTAND THE QUESTION?

12:13PM 14 THE WITNESS: THERE WERE SEVERAL VERBS.

12:13PM 15 THE COURT: WHY DON'T YOU REPHRASE?

12:13PM 16 BY MR. CAZARES:

12:13PM 17 Q. AT THE TIME, AT THE TIME THAT YOU SUGGESTED THE EXPERIMENT

12:13PM 18 IN FEBRUARY OF 2014 WITH THE NEW YORK PROFICIENCY TESTING

12:13PM 19 SAMPLES, YOU WERE UNAWARE THAT DR. ROSENDORFF HAD ALREADY

12:13PM 20 SIGNED OFF AND APPROVED A STANDARD OPERATING PROCEDURE FOR AAP

12:14PM 21 ON EDISON DEVICES; CORRECT?

12:14PM 22 A. CORRECT.

12:14PM 23 Q. AND THAT EXPERIMENT THAT YOU PERFORMED WASN'T PERFORMED

12:14PM 24 CONSISTENT WITH THAT STANDARD OPERATING PROCEDURE THAT HAD

12:14PM 25 ALREADY BEEN AUTHORIZED AND APPROVED BY DR. ROSENDORFF;

12:14PM 1 CORRECT?

12:14PM 2 A. CORRECT.

12:14PM 3 Q. AND YOU ALSO AGREED, I THINK WITH MR. BOSTIC, DID YOU NOT,

12:14PM 4 THAT THE CLINICAL LABORATORY SHOULD BE OPERATED AND CONDUCTED

12:14PM 5 CONSISTENT WITH THE STANDARD OPERATING PROCEDURES THAT WERE

12:14PM 6 ALREADY AUTHORIZED AND SIGNED OFF ON BY THE CLINICAL LABORATORY

12:14PM 7 DIRECTOR; CORRECT?

12:14PM 8 A. DID YOU JUST SAY THAT JOHN BOSTIC ASKED ME THAT QUESTION?

12:14PM 9 Q. WHAT I'M ASKING YOU IS THAT YOU AGREE THAT THE LABORATORY

12:14PM 10 SHOULD BE OPERATED AND ITS EMPLOYEES SHOULD PERFORM TESTING

12:14PM 11 CONSISTENT WITH THE STANDARD OPERATING PROCEDURES THAT WERE

12:14PM 12 APPROVED BY THE CLIA LAB DIRECTOR; CORRECT?

12:15PM 13 A. IN A DIAGNOSTIC LABORATORY, THAT WOULD BE AN APPROPRIATE

12:15PM 14 COURSE OF ACTION AS LONG AS THOSE SOP'S HAVE BEEN APPROVED BY

12:15PM 15 THE LABORATORY DIRECTOR.

12:15PM 16 Q. AND ADAM ROSENDORFF WAS THE LABORATORY DIRECTOR DURING THE

12:15PM 17 TIME THAT YOU WORKED AT THERANOS; CORRECT?

12:15PM 18 A. CORRECT.

12:15PM 19 Q. IF WE COULD PLEASE PUBLISH EXHIBIT 7440. IT'S ALREADY IN

12:15PM 20 EVIDENCE.

12:15PM 21 AND, DR. PANDORI, LOOKING ON THE SCREEN, DO YOU SEE 7440

12:15PM 22 IS AN EMAIL THAT WE DISCUSSED EARLIER FROM YOURSELF TO

12:15PM 23 MR. BALWANI AND DR. ROSENDORFF?

12:15PM 24 DO YOU SEE THAT?

12:15PM 25 A. YES, I DO.

12:15PM 1 Q. AND THAT'S APRIL 17TH, 2014.

12:15PM 2 DO YOU SEE THAT?

12:15PM 3 A. YES.

12:15PM 4 Q. AND THIS IS SUBSEQUENT TO THAT EXPERIMENT USING THE

12:15PM 5 NEW YORK PROFICIENCY TESTING SAMPLES; CORRECT?

12:15PM 6 A. YES.

12:15PM 7 Q. AND IN THE MESSAGE YOU INDICATE, "ATTACHED, A SLIDE SHOW I

12:15PM 8 PUT TOGETHER GIVING AN OVERVIEW OF AAP AND HOW IT WORKS AND WHY

12:16PM 9 IT IS BETTER THAN PT."

12:16PM 10 DO YOU SEE THAT?

12:16PM 11 A. YES.

12:16PM 12 Q. AND THOSE ARE YOUR WORDS; CORRECT?

12:16PM 13 A. CORRECT.

12:16PM 14 Q. AND PT REFERS TO PROFICIENCY TESTING; CORRECT?

12:16PM 15 A. YES, IT DOES.

12:16PM 16 Q. AND IF WE CAN GO TO THE UNDERLYING POWERPOINT AT PAGE 6.

12:16PM 17 AND YOU PUT THE POWERPOINT TOGETHER; CORRECT?

12:16PM 18 A. THAT'S MY -- YES.

12:16PM 19 Q. AND INCLUDED IN THE POWERPOINT YOU PROVIDED TO MR. BALWANI

12:16PM 20 AND DR. ROSENDORFF, YOU WRITE, OR WROTE, IN THE PRESENTATION,

12:16PM 21 "THERANOS TESTS HAVE NO PEER GROUP."

12:16PM 22 CORRECT?

12:16PM 23 A. YES.

12:16PM 24 Q. AND YOU AGREED WITH THAT AT THE TIME; CORRECT?

12:16PM 25 A. IN APRIL OF '17, IT WAS CLEAR -- ON APRIL 17TH I THINK IS

12:17PM 1 WHEN THAT WAS DATED, THERE WAS NO TECHNICAL PEER.

12:17PM 2 Q. AND YOU ALSO WROTE IN THE PRESENTATION, "NORMAL PROCESS OF

12:17PM 3 PT IS THEREFORE NOT APPROPRIATE," EXCLAMATION POINT.

12:17PM 4 DO YOU SEE THAT?

12:17PM 5 A. YES.

12:17PM 6 Q. AND AGAIN, THIS IS YOUR PRESENTATION?

12:17PM 7 A. CORRECT.

12:17PM 8 Q. AND YOU AGREED WITH THAT AT THE TIME; CORRECT?

12:17PM 9 A. CORRECT.

12:17PM 10 MR. CAZARES: NO FURTHER QUESTIONS, YOUR HONOR.

12:17PM 11 THE COURT: MR. BOSTIC?

12:17PM 12 MR. BOSTIC: NOTHING FURTHER, YOUR HONOR.

12:17PM 13 THE COURT: MAY THIS WITNESS BE EXCUSED?

12:17PM 14 MR. CAZARES: YES, YOUR HONOR.

12:17PM 15 MR. BOSTIC: YES, YOUR HONOR.

12:17PM 16 THE COURT: YOU'RE EXCUSED, SIR. THANK YOU.

12:17PM 17 DOES THE GOVERNMENT HAVE ANOTHER WITNESS TO CALL?

12:17PM 18 MR. SCHENK: YES, YOUR HONOR.

12:17PM 19 THE UNITED STATES CALLS CONSTANCE CULLEN.

12:18PM 20 THE COURT: GOOD MORNING. IF YOU WOULD JUST STAND

12:18PM 21 THERE AND RAISE YOUR RIGHT HAND WHILE YOU FACE OUR COURTROOM

12:18PM 22 DEPUTY, SHE HAS A QUESTION FOR YOU.

12:18PM 23 **(GOVERNMENT'S WITNESS, CONSTANCE CULLEN, WAS SWORN.)**

12:18PM 24 THE WITNESS: YES.

12:18PM 25 THE COURT: THANK YOU.

12:18PM 1 LET ME INVITE YOU TO HAVE A SEAT HERE IN THIS CHAIR. FEEL  
12:18PM 2 FREE TO ADJUST THE CHAIR AND MICROPHONE AS YOU NEED. I THINK  
12:18PM 3 THERE'S SOME REFRESHMENT THERE FOR YOU SHOULD YOU LIKE IT.  
12:18PM 4 AND WHEN YOU ARE COMFORTABLE, WOULD YOU PLEASE STATE YOUR  
12:18PM 5 NAME AND THEN SPELL IT, PLEASE.  
12:18PM 6 THE WITNESS: YES. MY NAME IS CONSTANCE CULLEN.  
12:18PM 7 C-O-N-S-T-A-N-C-E, C-U-L-L-E-N.  
12:19PM 8 THE COURT: THANK YOU. COUNSEL.  
12:19PM 9 MR. SCHENK: THANK YOU, YOUR HONOR.  
12:19PM 10 **DIRECT EXAMINATION**  
12:19PM 11 BY MR. SCHENK:  
12:19PM 12 Q. DR. CULLEN, IF YOU ARE FULLY VACCINATED, AND WITH THE  
12:19PM 13 COURT'S PERMISSION, I UNDERSTAND THAT YOU MAY TESTIFY WITHOUT A  
12:19PM 14 MASK.  
12:19PM 15 A. YES.  
12:19PM 16 THE COURT: YES. THANK YOU.  
12:19PM 17 MR. SCHENK: AND I'LL DO THE SAME.  
12:19PM 18 Q. DR. CULLEN, WAS THERE A TIME WHEN YOU WERE EMPLOYED BY A  
12:19PM 19 COMPANY THAT WENT BY THE NAME OF SCHERING-PLOUGH?  
12:19PM 20 A. YES, I WAS.  
12:19PM 21 Q. AND HOW LONG DID YOU WORK AT SCHERING-PLOUGH?  
12:19PM 22 A. I WORKED THERE FROM 1996 UNTIL 2016.  
12:19PM 23 Q. AND WHILE YOU WERE WORKING AT SCHERING-PLOUGH, DID YOU  
12:19PM 24 HAVE THE OPPORTUNITY TO BECOME FAMILIAR WITH ANOTHER COMPANY  
12:19PM 25 CALLED THERANOS?

12:19PM 1 A. YES.

12:19PM 2 Q. DO YOU REMEMBER WHEN THAT WAS?

12:19PM 3 A. YES. IT WAS IN 2009.

12:19PM 4 Q. AND WHAT WORK WERE YOU DOING AT SCHERING-PLOUGH IN 2009?

12:19PM 5 A. I WAS LEADING A GROUP THAT WAS KNOWN AS THE BIOANALYTICAL

12:20PM 6 GROUP. SO THE GROUP WAS RESPONSIBLE FOR DEVELOPING THE ASSAYS

12:20PM 7 THAT ARE NEEDED TO TEST DRUGS AND THE RESPONSES TO DRUGS IN

12:20PM 8 EITHER ANIMAL STUDIES OR HUMAN STUDIES.

12:20PM 9 Q. OKAY. WE'LL COME BACK TO THAT WORK IN A MOMENT.

12:20PM 10 I'D LIKE TO HAVE YOU SUMMARIZE YOUR EDUCATIONAL BACKGROUND

12:20PM 11 FOR THE JURY.

12:20PM 12 A. YES. I HAVE A PH.D. IN MOLECULAR IMMUNOLOGY AND A

12:20PM 13 BACHELOR'S DEGREE IN MICROBIOLOGY.

12:20PM 14 Q. OKAY. AND WHEN YOU STARTED AT SCHERING-PLOUGH IN 1996,

12:20PM 15 WHAT TYPE OF WORK WERE YOU DOING?

12:20PM 16 A. IT WAS ESSENTIALLY THE SAME. I HAD BEEN PROMOTED A NUMBER

12:20PM 17 OF TIMES THROUGHOUT THE YEARS UNTIL I WAS ACTUALLY LEADING THE

12:20PM 18 GROUP, SO --

12:20PM 19 Q. AND WHEN YOU SAY "LEADING THE GROUP," WAS THAT IN 2009?

12:20PM 20 A. YES, IT WAS.

12:20PM 21 Q. OKAY. DO YOU RECALL YOUR TITLE IN 2009?

12:20PM 22 A. YES, DIRECTOR.

12:20PM 23 Q. AND WHAT TYPE OF WORK WAS SCHERING-PLOUGH GOING TO DO AT

12:21PM 24 THERANOS THAT LED YOU TO BECOME FAMILIAR WITH THAT COMPANY?

12:21PM 25 A. SO THERANOS WAS DEVELOPING ASSAYS TO MEASURE A VARIETY OF

12:21PM 1 DIFFERENT COMPONENTS IN HUMAN SERUM SAMPLES, OR BLOOD SAMPLES,  
12:21PM 2 AND THAT MESHERED VERY NICELY WITH THE WORK THAT WE WERE DOING IN  
12:21PM 3 MY LAB.

12:21PM 4 Q. AND WHAT TYPE OF WORK WERE YOU DOING IN YOUR LAB?

12:21PM 5 A. WE WERE DESIGNING AND DEVELOPING THE ASSAYS TO MEASURE  
12:21PM 6 DRUGS OR MARKERS OF EFFICACY OF THE DRUG IN PATIENT SAMPLES.

12:21PM 7 Q. AND WHAT DOES THAT MEAN, MARKERS OF THE EFFICACY OF THE  
12:21PM 8 DRUG?

12:21PM 9 A. SO IF YOU'RE TESTING A DRUG, FOR EXAMPLE, THAT IS INTENDED  
12:21PM 10 TO TREAT AN INFLAMMATORY AILMENT, THERE ARE WELL-KNOWN MARKERS  
12:21PM 11 OF INFLAMMATION, AND YOU MEASURE THE CHANGE IN THOSE MARKERS AS  
12:21PM 12 A RESULT OF A PATIENT BEING ADMINISTERED DRUG.

12:22PM 13 Q. AND WHY WAS MEASURING THOSE MARKERS SOMETHING THAT WAS  
12:22PM 14 INTERESTING OR VALUABLE TO YOUR WORK AT SCHERING-PLough?

12:22PM 15 A. BECAUSE IT PROVED THE EFFICACY OF THE DRUG, WHICH IS  
12:22PM 16 REQUIRED AS PART OF OUR REGISTRATION OF THE DRUG WITH THE FOOD  
12:22PM 17 AND DRUG ADMINISTRATION OR OTHER HEALTH AUTHORITIES.

12:22PM 18 Q. DO YOU REMEMBER HOW YOU FIRST BECAME FAMILIAR WITH  
12:22PM 19 THERANOS?

12:22PM 20 A. MY BOSS HAD ASKED ME TO DO SOME WORK WITH THEM. THAT  
12:22PM 21 WAS -- HE ACTUALLY HAD RECEIVED THE REQUEST FROM THE HEAD OF  
12:22PM 22 OUR EARLY CLINICAL RESEARCH GROUP.

12:22PM 23 THE EARLY CLINICAL RESEARCH GROUP IS RESPONSIBLE FOR THOSE  
12:22PM 24 VERY FIRST HUMAN STUDIES, AND SO THAT GROUP IN PARTICULAR HAS  
12:22PM 25 AN INTEREST IN MEASURING THESE MARKERS OF DRUG EFFICACY.

12:22PM 1 Q. AM I FOLLOWING CORRECTLY, YOUR BOSS HEARD FROM SOMEBODY  
12:22PM 2 ELSE THAT --  
12:22PM 3 A. HIS COLLEAGUE, YES.  
12:22PM 4 Q. AND WHAT IS YOUR BOSS'S NAME?  
12:23PM 5 A. STEVE FARRAND.  
12:23PM 6 Q. COULD YOU SPELL THE LAST NAME?  
12:23PM 7 A. F-A-R-R-A-N-D.  
12:23PM 8 Q. OKAY. AND IS IT DR., DR. FARRAND?  
12:23PM 9 A. YES.  
12:23PM 10 Q. AND DR. FARRAND LEARNED ABOUT THERANOS FROM ANOTHER  
12:23PM 11 EMPLOYEE AT SCHERING-PLOUGH?  
12:23PM 12 A. THAT'S RIGHT. THAT PERSON'S NAME IS JIM MCLEOD,  
12:23PM 13 M-C-L-E-O-D.  
12:23PM 14 Q. AND DR. MCLEOD MAKE THIS REFERRAL OR RECOMMENDATION TO  
12:23PM 15 DR. FARRAND, WHO THEN BROUGHT YOU IN; IS THAT RIGHT?  
12:23PM 16 A. THAT'S RIGHT.  
12:23PM 17 Q. OKAY. DO YOU REMEMBER WHAT YOUR FIRST INTRODUCTION OR  
12:23PM 18 INTERACTION WITH SOMEBODY AT THERANOS WAS?  
12:23PM 19 A. I BELIEVE THAT I HAD EITHER A PHONE CALL OR AN EMAIL  
12:23PM 20 CORRESPONDENCE, OR BOTH, WITH ELIZABETH HOLMES.  
12:23PM 21 Q. AND WAS MS. HOLMES THE INDIVIDUAL WHO YOU FIRST  
12:23PM 22 COMMUNICATED WITH AT THERANOS?  
12:23PM 23 A. YES.  
12:23PM 24 Q. THANK YOU.  
12:23PM 25 YOUR HONOR, MAY I APPROACH?

12:23PM 1 THE COURT: YES.

12:24PM 2 MR. SCHENK: (HANDING.)

12:24PM 3 Q. DR. CULLEN, I'VE HANDED YOU A BINDER OF DOCUMENTS, AND I'M

12:24PM 4 GOING TO ASK YOU TO TURN TO WHAT IS THE FIRST TAB IN THAT

12:24PM 5 BINDER. IT'S EXHIBIT 188.

12:24PM 6 DO YOU SEE THAT?

12:24PM 7 A. YES, I DO.

12:24PM 8 Q. AND I'LL ASK YOU TO LOOK AT IT, AND MY QUESTION IS, IS

12:24PM 9 THIS AN EMAIL EXCHANGE BETWEEN YOU AND MS. HOLMES AT THE

12:24PM 10 BEGINNING OF THIS RELATIONSHIP?

12:24PM 11 A. YES.

12:24PM 12 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS 188.

12:24PM 13 MS. WALSH: NO OBJECTION.

12:24PM 14 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

12:24PM 15 (GOVERNMENT'S EXHIBIT 188 WAS RECEIVED IN EVIDENCE.)

12:24PM 16 BY MR. SCHENK:

12:24PM 17 Q. DR. CULLEN, IF WE LOOK AT THE VERY BOTTOM OF THE EMAIL IN

12:24PM 18 THE CHAIN, SO THE FIRST IN TIME, IT LOOKS LIKE MS. HOLMES WROTE

12:24PM 19 TO YOU AT THE END OF FEBRUARY 2009.

12:24PM 20 DO YOU SEE THAT?

12:24PM 21 A. YES, I DO.

12:24PM 22 Q. AND SHE REFERENCED A GOOD CALL WITH JIM MCLEOD -- IS THAT

12:25PM 23 THE INDIVIDUAL YOU MENTIONED A MOMENT AGO?

12:25PM 24 A. THAT'S CORRECT.

12:25PM 25 Q. -- AND IS LOOKING FOR A TIME TO FOLLOW UP WITH YOU,

12:25PM 1 DR. CULLEN; IS THAT RIGHT?

12:25PM 2 A. THAT'S CORRECT.

12:25PM 3 Q. AND THEN AT THE VERY TOP OF THIS DOCUMENT, THE FIRST

12:25PM 4 EMAIL, THE BEGINNING OF MARCH 2009, MS. HOLMES WRITES AGAIN,

12:25PM 5 "TAKE A LOOK AT THE ATTACHED PER OUR CONVERSATION -- IF WE GO

12:25PM 6 DOWN THIS PATH, THERE ARE TWO SETS OF DOCUMENTS THAT WILL

12:25PM 7 COMPLIMENT THIS SUMMARY -- ONE IS THE DETAILED PROTOCOL FOR

12:25PM 8 RUNNING THESE EXPERIMENTS, THE OTHER IS THE CARTRIDGE INSERTS

12:25PM 9 THAT DETAIL PERFORMANCE SPECIFICATIONS."

12:25PM 10 DO YOU SEE THAT?

12:25PM 11 A. YES.

12:25PM 12 Q. IT LOOKS LIKE AT THE BEGINNING OF THAT EMAIL MS. HOLMES

12:25PM 13 SAYS, "TAKE A LOOK AT THE ATTACHED, IF WE GO DOWN THIS PATH."

12:25PM 14 WHAT DID YOU UNDERSTAND THAT TO BE A REFERENCE TO?

12:25PM 15 A. SO SCHERING-PLOUGH WAS CONSIDERING USING THERANOS TO

12:25PM 16 VALIDATE SOME ASSAYS FOR THEM WITH THEIR INSTRUMENTS.

12:25PM 17 Q. WHAT DOES THAT MEAN, SCHERING-PLOUGH WAS CONSIDERING USING

12:26PM 18 THERANOS TO VALIDATE ASSAYS?

12:26PM 19 A. SO THEY WOULD HAVE DONE THE WORK DEMONSTRATING THE UTILITY

12:26PM 20 OF THEIR INSTRUMENT FOR THE USE THAT SCHERING-PLOUGH HAD

12:26PM 21 INTENDED.

12:26PM 22 Q. WHEN YOU SAY "THEY," IS THAT THERANOS?

12:26PM 23 A. YES, THERANOS.

12:26PM 24 Q. SO DESCRIBE TO ME MORE PRECISELY, WHAT IS THE WORK THAT

12:26PM 25 THERANOS WOULD HAVE DONE?

12:26PM 1 A. SO IT'S REFERRED TO AS A VALIDATION. IT'S REQUIRED IN  
12:26PM 2 ACCORDANCE WITH THE FDA GUIDANCE IN ORDER TO DEMONSTRATE THE  
12:26PM 3 REPRODUCIBILITY OF ANY GIVEN ASSAY THAT YOU'RE GOING TO USE TO  
12:26PM 4 SUPPORT SUBMISSION FOR YOUR DRUG.

12:26PM 5 Q. SO IF THIS WORK WAS DONE, YOU DESCRIBED SOME VALIDATION  
12:26PM 6 WORK THAT THERANOS WOULD BE DOING. WHAT WOULD SCHERING-PLOUGH,  
12:26PM 7 WHAT WOULD YOU OR YOUR LAB BE DOING?

12:26PM 8 A. IN THIS CASE WE WERE NOT DOING ANYTHING.

12:26PM 9 Q. OKAY. IF YOU'LL TURN NOW TO PAGE 2 OF THIS EXHIBIT, AND  
12:27PM 10 THE REMAINING PAGE, I THINK IT GOES TO PAGE 3, COULD YOU LET  
12:27PM 11 THE JURY KNOW WHAT THESE ARE, WHAT THE ATTACHMENTS ARE TO THIS  
12:27PM 12 DOCUMENT?

12:27PM 13 A. YES. SO THIS IS A PROTOCOL FOR THE VALIDATION WORK THAT  
12:27PM 14 I'VE JUST MENTIONED, AND A PROTOCOL IS A DOCUMENT THAT  
12:27PM 15 DESCRIBES IN ADVANCE OF EXECUTING ANY LABORATORY WORK WHAT WORK  
12:27PM 16 IS ACTUALLY TO BE DONE.

12:27PM 17 Q. SO WOULD THIS DOCUMENT HAVE LAID OUT SCHERING-PLOUGH AND  
12:27PM 18 THERANOS'S UNDERSTANDING OF WHAT THE PROTOCOL WOULD INVOLVE?

12:27PM 19 A. THAT'S CORRECT.

12:27PM 20 Q. AND UNDER THE FIRST LINE OF THE DOCUMENT, DO YOU SEE THE  
12:27PM 21 LETTERS HS IN PARENTHESES, AND THEN CRP, IL-6, AND TNF-A  
12:27PM 22 MULTIPLEX?

12:27PM 23 A. YES.

12:27PM 24 Q. AND COULD YOU TELL THE JURY WHAT THAT IS?

12:27PM 25 A. YES. THESE ARE THREE MARKERS OF INFLAMMATION. SO CRP

12:28PM 1 STANDS FOR C REACTIVE PROTEIN; IL-6 STANDS FOR INTERLEUKIN 6;

12:28PM 2 AND TNF-A STANDS FOR TUMOR NECROSIS FACTOR ALPHA.

12:28PM 3 Q. AND THEN THE WORD MULTIPLEX, WHAT DOES THAT MEAN IN THIS

12:28PM 4 CONTEXT?

12:28PM 5 A. SO MULTIPLEX IS A WAY OF MEASURING ALL THREE OF THESE

12:28PM 6 ANALYTES SIMULTANEOUSLY AS OPPOSED TO MEASURING THEM

12:28PM 7 INDIVIDUALLY.

12:28PM 8 Q. I SEE. AND IS ANOTHER WORD FOR THESE THREE ANALYTES

12:28PM 9 ASSAYS?

12:28PM 10 A. YES, ONE COULD USE THAT WORD TO DESCRIBE THEM.

12:28PM 11 Q. AND THEN IF YOU'LL TURN TO THE FINAL PAGE IN THIS, WHICH

12:28PM 12 IS PAGE 3. THERE'S A SECTION TITLED ESTIMATED SCHEDULE.

12:28PM 13 DO YOU SEE THAT?

12:29PM 14 A. YES.

12:29PM 15 Q. AND IT LOOKS LIKE THERE'S A LINE THAT BEGINS "TOTAL NUMBER

12:29PM 16 OF CARTRIDGES PROVIDED WILL BE 2,790 OF THE TNF-ALPHA, IL-6,

12:29PM 17 CRP MULTIPLEX. UP TO 10 ADDITIONAL INSTRUMENTS WILL BE

12:29PM 18 SHIPPED. THE TOTAL EXPECTED RUNTIME IS AROUND 1 MONTH. THE

12:29PM 19 TOTAL HUMAN CAPITAL COMMITMENT WILL ONLY BE 5 DAYS OVER THE

12:29PM 20 ENTIRE PROGRAM DURATION AS IT ONLY TAKES UP TO 10 MINUTES TO

12:29PM 21 PREPARE AND LOAD A SAMPLE ON A SINGLE INSTRUMENT AFTER WHICH

12:29PM 22 THE INSTRUMENTS RUN ON THEIR OWN."

12:29PM 23 DO YOU SEE THAT?

12:29PM 24 A. I DO SEE THAT.

12:29PM 25 Q. SO WHAT IS -- CAN YOU DESCRIBE FOR THE JURY, WHAT DOES

12:29PM 1 THAT MEAN? WHAT IS ACTUALLY OCCURRING DURING THE SCHEDULE?

12:29PM 2 A. SO THE CARTRIDGES ARE THE INSERTS OR THE DISPOSABLE

12:30PM 3 PRODUCTS THAT ARE REQUIRED TO BE INSERTED INTO THE THERANOS

12:30PM 4 INSTRUMENT IN ORDER TO GENERATE A RESULT.

12:30PM 5 IN THIS CASE THOSE CARTRIDGES WERE DESIGNED TO BE ABLE TO

12:30PM 6 MEASURE ALL THREE, TNF-ALPHA, INTERLEUKIN-6, AND CRP

12:30PM 7 SIMULTANEOUSLY.

12:30PM 8 SORRY. DO YOU HAVE OTHER QUESTIONS ABOUT THE SECTION THAT

12:30PM 9 YOU WANT ME TO DESCRIBE?

12:30PM 10 Q. YES. HOW ABOUT THE RUNTIME?

12:30PM 11 A. OKAY. SO THE RUNTIME PRESUMABLY IS THE AMOUNT OF TIME

12:30PM 12 THAT IT WOULD TAKE FROM THE INITIATION OF THE PROTOCOL TO THE

12:30PM 13 COMPLETION OF THE PROTOCOL, WHICH USUALLY REQUIRES A REPORT.

12:30PM 14 Q. OKAY. AND HOW LONG WOULD THE INITIATION OF THE PROTOCOL

12:30PM 15 TO THE END, INCLUDING THE REPORT, TAKE ON THIS SCHEDULE?

12:30PM 16 A. IT LOOKS LIKE THEY'RE INDICATING IT WOULD TAKE ONE MONTH.

12:31PM 17 Q. OKAY. IF YOU'LL NOW TURN TO EXHIBIT 200.

12:31PM 18 DO YOU RECOGNIZE EXHIBIT 200?

12:31PM 19 A. I HAVE SEEN IT PREVIOUSLY, YES.

12:31PM 20 Q. OKAY. IS THIS AN AGREEMENT, A SERVICES AGREEMENT BETWEEN

12:31PM 21 SCHERING-PLOUGH AND THERANOS INVOLVING THE PROTOCOL OR THE

12:31PM 22 PROJECT THAT WE HAVE BEEN DISCUSSING?

12:31PM 23 A. YES.

12:31PM 24 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS 200.

12:31PM 25 MS. WALSH: NO OBJECTION.

12:31PM 1 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

12:31PM 2 (GOVERNMENT'S EXHIBIT 200 WAS RECEIVED IN EVIDENCE.)

12:31PM 3 BY MR. SCHENK:

12:31PM 4 Q. DR. CULLEN, IN THE FIRST PARAGRAPH, THE AGREEMENT

12:31PM 5 REFERENCES A SERVICES AGREEMENT BETWEEN SCHERING CORPORATION IN

12:31PM 6 NEW JERSEY AND THERANOS IN CALIFORNIA.

12:31PM 7 DO YOU SEE THAT?

12:31PM 8 A. YES.

12:31PM 9 Q. AND WHERE WERE YOU AND YOUR LAB WHILE THIS PROTOCOL WAS

12:32PM 10 BEING RUN?

12:32PM 11 A. I WAS IN NEW JERSEY.

12:32PM 12 Q. OKAY. AND HOW ABOUT THERANOS?

12:32PM 13 A. THERANOS WAS IN CALIFORNIA.

12:32PM 14 Q. OKAY. IF WE CAN NOW GO DOWN TO THE TERM THAT IS IN

12:32PM 15 PARAGRAPH NUMBERED 2. IT LOOKS LIKE THE ANTICIPATED START DATE

12:32PM 16 WAS APRIL 15, 2009.

12:32PM 17 DO YOU SEE THAT?

12:32PM 18 A. YES.

12:32PM 19 Q. AND IT WOULD BE COMPLETED MAY 1ST, 2009?

12:32PM 20 A. YES.

12:32PM 21 Q. AND THEN LET'S LOOK AT THE PAYMENT TERMS. THAT'S THE LAST

12:32PM 22 PARAGRAPH ON THIS PAGE, PARAGRAPH 4, SPRI.

12:32PM 23 WHAT IS SPRI?

12:32PM 24 A. THAT STANDS FOR SCHERING-PLough RESEARCH INSTITUTE, WHICH

12:32PM 25 IS A DIVISION THAT WAS WITHIN SCHERING CORPORATION.

12:32PM 1 Q. "SPRI WILL PAY PROVIDER A ONE TIME PAYMENT OF \$279,000 FOR  
12:32PM 2 THE PROJECT."

12:32PM 3 WHO IS THE PROVIDER?

12:32PM 4 A. THERANOS IS THE PROVIDER.

12:32PM 5 Q. WAS THAT THE TOTAL DOLLAR AMOUNT FOR THIS CONTRACT, THE  
12:33PM 6 TOTAL DOLLAR AMOUNT THAT SCHERING WAS GOING TO PAY THERANOS?

12:33PM 7 A. AS FAR AS I KNOW.

12:33PM 8 Q. COULD YOU NOW TURN TO TAB 201.

12:33PM 9 DO YOU RECOGNIZE THE EXHIBIT AT EXHIBIT NUMBER 201?

12:33PM 10 A. NOT REALLY, NO.

12:33PM 11 Q. IF YOU'LL TURN TO THE SECOND PAGE.

12:33PM 12 ON THE SECOND PAGE, DO YOU SEE AN EMAIL FROM MS. HOLMES TO  
12:33PM 13 YOU?

12:33PM 14 A. YES.

12:33PM 15 Q. AND WAS THAT SENT IN ABOUT APRIL OF 2009?

12:33PM 16 A. YES.

12:33PM 17 Q. AND THEN IF WE GO AND LOOK AT THE FIRST PAGE, DOES IT  
12:33PM 18 APPEAR THAT THAT COMMUNICATION WAS FORWARDED WITHIN THERANOS?

12:33PM 19 A. YES, IT DOES.

12:33PM 20 Q. AND IF YOU'LL LOOK AT PAGE 3 AND THE FOLLOWING PAGES WOULD  
12:34PM 21 APPEAR TO BE ATTACHED.

12:34PM 22 DO YOU RECOGNIZE THOSE AS AN INVOICE AND ALSO ANOTHER COPY  
12:34PM 23 OF THE PROTOCOL?

12:34PM 24 A. YES TO BOTH, INVOICE AND PROTOCOL, I SEE THEM.

12:34PM 25 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS 201.

12:34PM 1 MS. WALSH: NO OBJECTION.

12:34PM 2 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

12:34PM 3 (GOVERNMENT'S EXHIBIT 201 WAS RECEIVED IN EVIDENCE.)

12:34PM 4 BY MR. SCHENK:

12:34PM 5 Q. IF WE CAN START WITH THE EMAIL ON PAGE 2 FROM MS. HOLMES

12:34PM 6 TO YOU.

12:34PM 7 DO YOU SEE WHERE MS. HOLMES WRITES, "IN FOLLOW UP TO OUR

12:34PM 8 DISCUSSIONS WITH CONNIE, WE HAVE CEMENTED A COMPREHENSIVE

12:34PM 9 VALIDATION PROGRAM ON ONE OF OUR MULTIPLEXED CYTOKINE PANELS.

12:34PM 10 I HAVE ATTACHED THE INVOICE AND PROGRAM OVERVIEW TO THIS EMAIL.

12:35PM 11 THIS INVOICE SHOULD WORK IN LIEU OF A CONTRACT AS THIS ANALYSIS

12:35PM 12 WILL BE DONE AT THERANOS AND THE SCOPE IS RESTRICTED TO

12:35PM 13 VALIDATION."

12:35PM 14 DO YOU SEE THAT?

12:35PM 15 A. YES.

12:35PM 16 Q. AND THEN IN THE NEXT PARAGRAPH, MS. HOLMES CONTINUES, "WE

12:35PM 17 DID OF COURSE WORK THROUGH THE VALIDATION PROGRAM WITH CONNIE

12:35PM 18 IN GREAT DETAIL. WE WILL PRESENT THE RESULTS OF THE VALIDATION

12:35PM 19 BY YOUR VISIT IN MAY."

12:35PM 20 FIRST, DID YOU WORK THROUGH THIS VALIDATION WITH FOLKS AT

12:35PM 21 THERANOS OR MS. HOLMES?

12:35PM 22 A. THAT WOULD HAVE BEEN THE PROTOCOL THAT YOU SHOWED EARLIER.

12:35PM 23 Q. OKAY. YOU HAD A ROLE IN --

12:35PM 24 A. REVIEWING.

12:35PM 25 Q. REVIEWING -- OKAY.

12:35PM 1 A. CORRECT.

12:35PM 2 Q. AND THEN MS. HOLMES SAYS THERE'S A REFERENCE TO YOUR VISIT

12:35PM 3 IN MAY.

12:35PM 4 WHAT IS THAT A REFERENCE TO?

12:35PM 5 A. SO SCHERING-PLough SENT A DUE DILIGENCE TEAM TO THERANOS

12:35PM 6 IN MAY OF 2009.

12:35PM 7 Q. OKAY. AND WHAT IS A DUE DILIGENCE TEAM?

12:35PM 8 A. SO IT'S A GROUP OF PEOPLE WITHIN THE COMPANY FROM

12:35PM 9 DIFFERENT DISCIPLINES THAT ARE SENT TO DO AN EVALUATION OF A

12:36PM 10 COMPANY IN ORDER TO VERIFY THAT THEY WOULD BE APPROPRIATE TO

12:36PM 11 WORK WITH AND COULD MEET THE, EXCUSE ME, THE NEEDS OF SCHERING

12:36PM 12 WITH RESPECT TO COMPLIANCE AND FINANCIALS, ET CETERA.

12:36PM 13 Q. OKAY. WE'LL COME BACK TO THAT MEETING IN JUST A MOMENT.

12:36PM 14 A. WOULD YOU TURN TO PAGE 3.

12:36PM 15 Q. ON PAGE 3, I'M JUST WONDERING IF THE DOLLAR AMOUNT CHANGED

12:36PM 16 OR IF THERANOS IS INVOICING SCHERING-PLough FOR THAT SAME

12:36PM 17 DOLLAR AMOUNT THAT WE DISCUSSED EARLIER.

12:36PM 18 A. THAT'S THE SAME DOLLAR AMOUNT.

12:36PM 19 Q. AND WHAT IS THE AMOUNT?

12:36PM 20 A. \$279,000.

12:36PM 21 Q. AND IF YOU'LL TURN TO PAGE 6 OF THIS EXHIBIT.

12:36PM 22 A. PAGE 6 INCLUDES AN ESTIMATED SCHEDULE.

12:36PM 23 Q. DID THE SCHEDULE CHANGE, OR ARE WE STILL LOOKING AT ABOUT

12:36PM 24 A. ONE MONTH ESTIMATE?

12:37PM 25 A. THE SCHEDULE IS THE SAME.

12:37PM 1 Q. ALL RIGHT. IF YOU'LL NOW TURN TO TAB 192 IN YOUR BINDER.

12:37PM 2 IS 192 A MEETING REMINDER FOR THE MEETING IN CALIFORNIA IN

12:37PM 3 PALO ALTO THAT YOU WERE JUST TALKING ABOUT, AND ALSO AN AGENDA?

12:37PM 4 A. THAT'S RIGHT.

12:37PM 5 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS 192.

12:37PM 6 MS. WALSH: NO OBJECTION.

12:37PM 7 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

12:37PM 8 (GOVERNMENT'S EXHIBIT 192 WAS RECEIVED IN EVIDENCE.)

12:37PM 9 BY MR. SCHENK:

12:37PM 10 Q. THE MEETING START DATE LOOKS LIKE IT'S MAY 5TH, 2009.

12:37PM 11 DOES THAT SOUND ROUGHLY CORRECT TO YOU?

12:37PM 12 A. YES.

12:37PM 13 Q. AND UNDER PARTICIPANTS, THERE'S SOME INDIVIDUALS LISTED

12:37PM 14 FROM -- IT LOOKS LIKE FROM SCHERING-PLOUGH.

12:37PM 15 DO YOU SEE YOUR NAME LISTED THERE?

12:37PM 16 A. YES, I DO.

12:37PM 17 Q. DID YOU, IN FACT, ATTEND THIS MEETING?

12:37PM 18 A. YES, I DID.

12:38PM 19 Q. WAS MS. HOLMES PRESENT?

12:38PM 20 A. YES, SHE WAS.

12:38PM 21 Q. WAS MR. BALWANI PRESENT? DO YOU KNOW THAT NAME?

12:38PM 22 A. I DID NOT KNOW THE NAME, AND I DO NOT RECALL IF THAT

12:38PM 23 PERSON WAS PRESENT.

12:38PM 24 Q. OKAY. IT'S POSSIBLE THAT YOU HAVE NEVER MET SOMEONE NAMED

12:38PM 25 MR. BALWANI?

12:38PM 1 A. CORRECT.

12:38PM 2 Q. OKAY. IF YOU'LL NOW TURN TO THE SECOND PAGE, THE AGENDA,

12:38PM 3 DO YOU RECALL WHAT WAS DISCUSSED DURING THIS -- YOU CALLED IT A

12:38PM 4 DUE DILIGENCE MEETING?

12:38PM 5 A. YES, I DO.

12:38PM 6 Q. TELL THE JURY WHAT TOPICS WERE COVERED.

12:38PM 7 A. SO WE WERE DISCUSSING THE TECHNOLOGY PREDOMINANTLY, WHAT

12:38PM 8 THE CAPABILITIES WERE, WHAT SORTS OF TESTS COULD BE DEVELOPED

12:38PM 9 ON THE PLATFORM.

12:38PM 10 Q. AND DID YOU ASK QUESTIONS DURING THE MEETING?

12:38PM 11 A. I DID.

12:38PM 12 Q. AND WHO DID YOU DIRECT YOUR QUESTIONS TO?

12:38PM 13 A. INITIALLY I DIRECTED MY QUESTIONS TO ELIZABETH HOLMES, AND

12:38PM 14 THEN SUBSEQUENTLY I DIRECTED THEM TO OTHER THERANOS EMPLOYEES

12:39PM 15 WHO WERE PARTICIPATING IN THE MEETING.

12:39PM 16 Q. YOU SAID SUBSEQUENTLY YOU DIRECTED THEM TO OTHERS. WHY

12:39PM 17 THE CHANGE? WHY DID YOU START WITH MS. HOLMES AND THEN DIRECT

12:39PM 18 QUESTIONS TO OTHERS?

12:39PM 19 A. I FELT AS THOUGH MS. HOLMES WAS NOT ANSWERING THE

12:39PM 20 QUESTIONS ADEQUATELY OR DIRECTLY, AND I WANTED TO SEE IF I

12:39PM 21 COULD GET MORE DIRECT ANSWERS FROM OTHER PARTICIPANTS FROM

12:39PM 22 THERANOS.

12:39PM 23 Q. WHAT MAKES YOU SAY THAT? WHY DO YOU SAY THAT YOU DIDN'T

12:39PM 24 THINK THAT MS. HOLMES WAS ANSWERING THEM ADEQUATELY?

12:39PM 25 A. SO DURING THESE DUE DILIGENCE MEETINGS, THERE IS THE

12:39PM 1 EXPECTATION THAT A CERTAIN LEVEL OF TECHNICAL DETAIL WILL BE  
12:39PM 2 DISCLOSED. THAT'S IMPORTANT FOR SCHERING-PLough IN THIS CASE  
12:39PM 3 BECAUSE THAT'S THE WAY THAT WE EVALUATE WHETHER OR NOT THIS  
12:39PM 4 INSTRUMENT COULD BE USED TO SUPPORT DRUG SUBMISSIONS TO THE FDA  
12:40PM 5 OR OTHER HEALTH AUTHORITIES.  
12:40PM 6 SO IT'S INCUMBENT UPON US TO HAVE A GOOD UNDERSTANDING OF  
12:40PM 7 HOW THE INSTRUMENT WORKS.  
12:40PM 8 AND WE WERE NOT ABLE TO GET THAT LEVEL OF DISCLOSURE OR  
12:40PM 9 UNDERSTANDING THROUGH THE QUESTIONS WITH MS. HOLMES.  
12:40PM 10 Q. HOW ABOUT WHEN YOU PIVOTED AND STARTED ASKING QUESTIONS OF  
12:40PM 11 OTHER PARTICIPANTS?  
12:40PM 12 A. NO.  
12:40PM 13 Q. DID YOU RECEIVE --  
12:40PM 14 A. NO. AND THE REASON FOR THAT WAS AT EACH ATTEMPT TO ASK  
12:40PM 15 OTHER INDIVIDUALS, MS. HOLMES INTERJECTED THE RESPONSE ON THEIR  
12:40PM 16 BEHALF.  
12:40PM 17 Q. SO YOU DIDN'T GET RESPONSES FROM OTHER INDIVIDUALS EVEN  
12:40PM 18 WHEN YOU DIRECTED A QUESTION AT THEM?  
12:40PM 19 A. THAT'S CORRECT.  
12:40PM 20 Q. DID YOU SAY TO MS. HOLMES DURING THIS MEETING THAT YOU  
12:40PM 21 FELT THE ANSWERS WERE INSUFFICIENT OR INADEQUATE?  
12:40PM 22 A. NO.  
12:40PM 23 Q. WHY NOT?  
12:40PM 24 A. IT SEEMED APPARENT TO ME, I GUESS, AND IT'S AWKWARD.  
12:41PM 25 Q. OKAY. WOULD YOU NOW TURN TO TAB 223.

12:41PM 1 A. I THINK MY BINDER IS EMPTY AT 223.

12:41PM 2 Q. YOUR BINDER IS EMPTY AT 223?

12:41PM 3 A. YES.

12:41PM 4 Q. LET ME GIVE YOU MY COPY.

12:41PM 5 MAY I APPROACH?

12:41PM 6 THE COURT: YES.

12:41PM 7 MR. SCHENK: (HANDING.)

12:41PM 8 Q. DR. CULLEN, DO YOU RECOGNIZE THE DOCUMENT AT 223 AS AN

12:41PM 9 EMAIL FROM YOU TO SOMEONE AT THERANOS NAMED GARY FRENZEL?

12:41PM 10 A. YES.

12:41PM 11 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS 223.

12:41PM 12 MS. WALSH: NO OBJECTION.

12:42PM 13 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

12:42PM 14 (GOVERNMENT'S EXHIBIT 223 WAS RECEIVED IN EVIDENCE.)

12:42PM 15 BY MR. SCHENK:

12:42PM 16 Q. AND IF WE CAN START AT THE BOTTOM OF THIS EMAIL.

12:42PM 17 THIS EMAIL WAS SENT IN JUNE OF 2009.

12:42PM 18 DO YOU SEE THAT?

12:42PM 19 A. YES.

12:42PM 20 Q. SO WOULD THAT HAVE BEEN ABOUT A MONTH OR A MONTH AND A

12:42PM 21 HALF AFTER YOUR MEETING IN PALO ALTO?

12:42PM 22 A. THAT'S CORRECT.

12:42PM 23 Q. AND IN THE EMAIL YOU ASK ABOUT AN UPDATE ON THE ASSAY

12:42PM 24 DEVELOPMENT.

12:42PM 25 DO YOU SEE THAT?

12:42PM 1 A. YES.

12:42PM 2 Q. AND WHAT WERE YOU LOOKING FOR?

12:42PM 3 A. SO I WAS LOOKING FOR DATA ASSOCIATED WITH THE PROTOCOL

12:42PM 4 THAT WE DISCUSSED EARLIER.

12:42PM 5 Q. AND WHAT FORM WOULD THAT DATA HAVE TAKEN? WHAT --

12:42PM 6 A. IT WOULD HAVE BEEN PRESENTED IN A REPORT.

12:42PM 7 Q. OKAY. SO YOU WANTED A REPORT, BUT HAD NOT RECEIVED IT

12:42PM 8 YET?

12:42PM 9 A. THAT'S CORRECT.

12:42PM 10 Q. OKAY. YOU TOLD US THAT YOU FOUND THE ANSWERS FROM

12:42PM 11 MS. HOLMES INADEQUATE OR LESS THAN FORTHCOMING.

12:42PM 12 WHY THEN WERE YOU STILL ASKING FOR A DATA REPORT?

12:42PM 13 A. I THINK BECAUSE WE CONSIDERED IT TO BE AN OUTSTANDING

12:43PM 14 ITEM. WE HAD PAID FOR THE WORK AND WANTED TO HAVE CLOSURE.

12:43PM 15 Q. OKAY. SCHERING-PLOUGH HAD PAID ABOUT \$280,000 FOR THIS

12:43PM 16 WORK?

12:43PM 17 A. THAT'S CORRECT.

12:43PM 18 Q. AND PART OF WHAT THERANOS AGREED TO PROVIDE WAS A REPORT?

12:43PM 19 A. THAT'S RIGHT.

12:43PM 20 Q. IF YOU WILL NOW TURN TO PAGE 2 -- I'M SORRY, EXHIBIT 259.

12:43PM 21 DOES EXHIBIT 259 INCLUDE AN EMAIL NOW FROM GARY FRENZEL TO

12:43PM 22 YOU AND THEN A REPORT ATTACHED?

12:43PM 23 A. YES.

12:43PM 24 MR. SCHENK: YOUR HONOR, THE GOVERNMENT --

12:43PM 25 THE WITNESS: SO DATED DECEMBER 3RD, 2009.

12:43PM 1 BY MR. SCHENK:

12:43PM 2 Q. YES, FROM MR. FRENZEL, DECEMBER OF 2009?

12:43PM 3 A. YES, I HAVE THAT.

12:44PM 4 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS

12:44PM 5 EXHIBIT 259, INCLUDING THE ATTACHMENT.

12:44PM 6 MS. WALSH: NO OBJECTION TO 259.

12:44PM 7 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

12:44PM 8 (GOVERNMENT'S EXHIBIT 259 WAS RECEIVED IN EVIDENCE.)

12:44PM 9 BY MR. SCHENK:

12:44PM 10 Q. THANK YOU.

12:44PM 11 IF WE CAN LOOK AT THE EMAIL ON THE BOTTOM FROM

12:44PM 12 GARY FRENZEL, AND IT LOOKS LIKE FROM THE SIGNATURE HE'S THE VP

12:44PM 13 OF ASSAY SYSTEMS AT THERANOS.

12:44PM 14 DO YOU SEE THAT?

12:44PM 15 A. YES, I DO.

12:44PM 16 Q. AND HE WRITES, "HI CONNIE, I WAS ASKED TO SEND THIS REPORT

12:44PM 17 ON TO YOU, AND IF YOU CAN FORWARD TO THE PROPER PEOPLE. AFTER

12:44PM 18 YOU AND YOUR GROUP HAVE AN OPPORTUNITY TO GO THROUGH IT, LET US

12:44PM 19 KNOW IF YOU WOULD LIKE TO ARRANGE A PHONE CONFERENCE TO DISCUSS

12:44PM 20 THE RESULTS."

12:44PM 21 DR. CULLEN, IS THIS THE REPORT THAT YOU WERE TALKING ABOUT

12:44PM 22 IN JUNE OF 2009?

12:44PM 23 A. YES.

12:44PM 24 Q. AND YOU RECEIVED IT AT THE END OF THAT YEAR, IN DECEMBER

12:44PM 25 OF 2009?

12:44PM 1 A. YES.

12:44PM 2 Q. AND IF YOU TURN TO THE NEXT PAGE, IT'S ACTUALLY PAGE 3 OF

12:44PM 3 THIS EXHIBIT, IS THIS WHERE THE REPORT BEGINS?

12:44PM 4 A. YES.

12:44PM 5 MR. SCHENK: YOUR HONOR, I HAVE SOME QUESTIONS ABOUT

12:44PM 6 THIS DOCUMENT, AND WITH A PENDING MOTION, I JUST WANT TO MAKE

12:45PM 7 SURE THAT THE COURT HAS AN OPPORTUNITY TO PROVIDE GUIDANCE IF

12:45PM 8 IT CHOOSES TO.

12:45PM 9 THE COURT: WELL, I THINK WE'LL PROCEED BY QUESTION

12:45PM 10 AND OBJECTIONS IF THERE ARE ANY.

12:45PM 11 MR. SCHENK: THANK YOU.

12:45PM 12 Q. AT THE VERY TOP OF THIS DOCUMENT, DR. CULLEN, ABOVE WHERE

12:45PM 13 IT SAYS THERANOS MULTIPLEXED ASSAY PANEL VALIDATION REPORT, DO

12:45PM 14 YOU SEE A LOGO AT THE VERY TOP ON THE LEFT?

12:45PM 15 A. YES.

12:45PM 16 MS. WALSH: OBJECTION.

12:45PM 17 THE COURT: OVERRULED.

12:45PM 18 BY MR. SCHENK:

12:45PM 19 Q. YOU CAN ANSWER THE QUESTION.

12:45PM 20 A. YES, I DO SEE THE LOGO.

12:45PM 21 Q. OKAY. AND WHOSE LOGO IS THAT?

12:45PM 22 A. IT'S THERANOS'S LOGOS.

12:45PM 23 Q. DR. CULLEN -- WELL, FIRST OF ALL, ON WHICH SIDE OF THE

12:45PM 24 DOCUMENT IS THE THERANOS LOGO?

12:45PM 25 A. IT'S ON THE LEFT.

12:45PM 1 Q. ON THE RIGHT SIDE OF THE DOCUMENT ACROSS FROM THE THERANOS  
12:45PM 2 LOGO, DO YOU SEE ANY OTHER LOGOS?  
12:45PM 3 A. NO.  
12:45PM 4 Q. IF YOU COULD NOW TURN TO PAGE 5.  
12:46PM 5 ON PAGE 5 OF THIS EXHIBIT, IT LOOKS LIKE THERE ARE THREE  
12:46PM 6 GRAPHS.  
12:46PM 7 DO YOU SEE THAT?  
12:46PM 8 A. YES.  
12:46PM 9 Q. AND WHOSE DATA IS THIS?  
12:46PM 10 A. THIS IS THERANOS'S.  
12:46PM 11 Q. AND DID SCHERING-PLOUGH GENERATE THIS DATA?  
12:46PM 12 A. NO.  
12:46PM 13 Q. WHO GENERATED THIS DATA?  
12:46PM 14 A. THERANOS.  
12:46PM 15 Q. IS THAT TRUE FOR THE ENTIRE CONTENT OF THIS DOCUMENT?  
12:46PM 16 A. THAT'S MY UNDERSTANDING, YES.  
12:46PM 17 Q. AND IF YOU'LL NOW TURN TO PAGE 19 OF THIS EXHIBIT, THERE'S  
12:46PM 18 A SECTION CALLED CONCLUSIONS.  
12:46PM 19 DO YOU SEE THAT?  
12:46PM 20 A. I DO.  
12:46PM 21 Q. AND WHOSE CONCLUSIONS WERE THESE?  
12:46PM 22 A. THESE WOULD HAVE BEEN THERANOS'S CONCLUSIONS SINCE IT WAS  
12:46PM 23 THEIR REPORT.  
12:46PM 24 Q. WERE THESE YOUR CONCLUSIONS?  
12:46PM 25 A. NO.

12:46PM 1 Q. WERE THESE THE CONCLUSIONS, TO YOUR KNOWLEDGE, OF ANYBODY  
12:47PM 2 AT SCHERING-PLOUGH?

12:47PM 3 A. NO.

12:47PM 4 Q. THE FIRST SENTENCE IN THE CONCLUSIONS SECTION READS, "THE  
12:47PM 5 THERANOS IL-6, TNF-A, CRP ASSAY MULTIPLEX HAS BEEN SHOWN TO  
12:47PM 6 GIVE ACCURATE AND PRECISE RESULTS FOR THREE INDEPENDENTLY  
12:47PM 7 CALIBRATED CARTRIDGE LOTS AND ALL THE MANY INSTRUMENTS USED."

12:47PM 8 DO YOU SEE THAT SENTENCE?

12:47PM 9 A. YES.

12:47PM 10 Q. WHEN THE CONCLUSION READS THAT THE ASSAY MULTIPLEX WAS  
12:47PM 11 SHOWN TO GIVE ACCURATE AND PRECISE RESULTS, WAS THAT A  
12:47PM 12 STATEMENT THAT SCHERING-PLOUGH WAS MAKING?

12:47PM 13 A. NO.

12:47PM 14 Q. DR. CULLEN, IF YOU WOULD NOW TURN TO TAB 262.  
12:47PM 15 DO YOU SEE AN EMAIL EXCHANGE AGAIN IN DECEMBER OF 2009  
12:48PM 16 BETWEEN GARY FRENZEL AND YOU?

12:48PM 17 A. YES.

12:48PM 18 MR. SCHENK: YOUR HONOR, THE GOVERNMENT OFFERS  
12:48PM 19 EXHIBIT 262.

12:48PM 20 MS. WALSH: NO OBJECTION.

12:48PM 21 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.  
12:48PM 22 (GOVERNMENT'S EXHIBIT 262 WAS RECEIVED IN EVIDENCE.)

12:48PM 23 BY MR. SCHENK:

12:48PM 24 Q. AT THE BOTTOM OF THIS FIRST PAGE, IT LOOKS LIKE  
12:48PM 25 MR. FRENZEL WRITES TO YOU THAT HE WANTS TO MAKE SURE THAT YOU

12:48PM 1 RECEIVED THE REPORT.

12:48PM 2 DO YOU SEE THAT?

12:48PM 3 A. I DO.

12:48PM 4 Q. AND THEN YOU FOLLOW UP THAT YOU'RE SORRY FOR THE SLOW

12:48PM 5 RESPONSE, YOU DID RECEIVE THE REPORT, BUT YOU WANT TO DEFER

12:48PM 6 DISCUSSIONS UNTIL JANUARY, YOU'RE SWAMPED WITH A MERGER WITH

12:48PM 7 MERCK.

12:48PM 8 WHAT IS THAT A REFERENCE TO?

12:48PM 9 A. SO SCHERING-PLOUGH WAS ACQUIRED BY MERCK IN NOVEMBER OF

12:48PM 10 2009.

12:48PM 11 Q. AND HOW DID THAT AFFECT YOUR JOB?

12:48PM 12 A. MY JOB GOT MUCH BIGGER.

12:48PM 13 Q. OKAY. YOU RECEIVED THE VALIDATION REPORT, I THINK WE JUST

12:49PM 14 SAW, IN NOVEMBER; IS THAT RIGHT?

12:49PM 15 A. THAT'S RIGHT.

12:49PM 16 Q. AND DID YOU DO SOMETHING WITH THAT REPORT IN DECEMBER OF

12:49PM 17 2009?

12:49PM 18 A. NO, OTHER THAN READ IT.

12:49PM 19 Q. OKAY. AND IT LOOKS LIKE GARY FRENZEL IS ASKING YOU ABOUT

12:49PM 20 FURTHER DISCUSSIONS, AND YOU SAID YOU WANTED TO DEFER THEM

12:49PM 21 UNTIL JANUARY; IS THAT RIGHT?

12:49PM 22 A. THAT'S CORRECT.

12:49PM 23 Q. DID YOU, IN FACT, HAVE FOLLOW-UP DISCUSSIONS WITH

12:49PM 24 GARY FRENZEL OR ANYBODY AT THERANOS --

12:49PM 25 A. NO.

12:49PM 1 Q. -- IN JANUARY OF 2010?

12:49PM 2 A. NO.

12:49PM 3 Q. HOW ABOUT AT ANY POINT AFTER DECEMBER 2009?

12:49PM 4 A. NOT TO MY RECOLLECTION, NO.

12:49PM 5 Q. WHY NOT?

12:49PM 6 A. WE WEREN'T INTERESTED IN PURSUING THE TECHNOLOGY, AND

12:49PM 7 THERE WAS A LOT OF OTHER WORK THAT WAS HIGHER PRIORITY.

12:49PM 8 Q. OKAY. YOU SAID THAT YOU WERE NOT INTERESTED IN PURSUING

12:49PM 9 THE TECHNOLOGY. DO YOU MEAN THE THERANOS TECHNOLOGY?

12:50PM 10 A. I DO.

12:50PM 11 Q. AND WHY DO YOU SAY THAT? WHY WERE YOU, OR WHY WAS

12:50PM 12 SCHERING-PLOUGH NOT INTERESTED?

12:50PM 13 A. I THINK IT WAS A COMBINATION OF THE DUE DILIGENCE VISIT,

12:50PM 14 AS WELL AS THE RESULTS IN THE VALIDATION REPORT.

12:50PM 15 Q. OKAY. THANK YOU.

12:50PM 16 WOULD YOU NOW TURN TO TAB 291.

12:50PM 17 NOW, THE FIRST PAGE IN 291 CONTAINS TWO EMAILS. YOU'RE

12:50PM 18 NOT ON EITHER OF THE EMAILS; IS THAT RIGHT?

12:50PM 19 A. THAT'S CORRECT.

12:50PM 20 MR. SCHENK: YOUR HONOR, THE GOVERNMENT WILL OFFER

12:50PM 21 THE TOP EMAIL, THAT IS WEDNESDAY APRIL 14TH, 2010, AND THE

12:50PM 22 ATTACHMENTS, THE ATTACHMENTS ARE A TOTAL OF 55 PAGES, FOR A

12:51PM 23 NONHEARSAY PURPOSE.

12:51PM 24 THE COURT: ARE THESE -- IS THIS SUBJECT TO THE

12:51PM 25 STIPULATION?

12:51PM 1 MR. SCHENK: IT IS, BECAUSE THE BATES NUMBERS  
12:51PM 2 DEMONSTRATE AUTHENTICITY.  
12:51PM 3 MS. WALSH: OBJECTION, YOUR HONOR. THE BASIS FOR  
12:51PM 4 THE OBJECTION IS OUR PENDING MOTION, 106, AND 403.  
12:51PM 5 THE COURT: ALL RIGHT. THANK YOU.  
12:51PM 6 AND, MR. SCHENK, YOU'RE ASKING THAT THE ATTACHMENTS BE  
12:51PM 7 ADMITTED AS THEY APPEAR IN THIS EXHIBIT?  
12:51PM 8 MR. SCHENK: YES, YOUR HONOR.  
12:51PM 9 THE COURT: AND TELL ME AGAIN THE RELEVANCE AND THE  
12:51PM 10 FOUNDATION FOR THESE COMING IN.  
12:51PM 11 MR. SCHENK: YES, YOUR HONOR.  
12:51PM 12 THE COURT: FOR WHAT PURPOSE?  
12:51PM 13 MR. SCHENK: YES, YOUR HONOR.  
12:51PM 14 THE EMAIL INCLUDES MR. BALWANI, THE DEFENDANT, ON THE CC  
12:52PM 15 LINE. IT IS THEREFORE RELEVANT TO DEMONSTRATE THE DEFENDANT'S  
12:52PM 16 STATE OF MIND AS TO TWO ISSUES, KNOWLEDGE AND INTENT; THAT IS,  
12:52PM 17 WHAT IS DONE WITH THE ATTACHMENTS.  
12:52PM 18 AND THE COURT SEES THREE UNDERLINED ATTACHMENTS IN THE  
12:52PM 19 CAPTION OF THE EMAIL.  
12:52PM 20 THE THIRD IS A VERSION OF THE DOCUMENT THAT WE HAVE JUST  
12:52PM 21 DISCUSSED WITH DR. CULLEN, AND THE OTHERS MAY COME UP DURING  
12:52PM 22 THE COURSE OF THE TRIAL.  
12:52PM 23 THE COURT: SO THESE ARE NOT COMING IN FOR THE TRUTH  
12:52PM 24 OF ANYTHING ASSERTED, BUT RATHER THAT THEY WERE RECEIVED AT  
12:52PM 25 LEAST BY MR. BALWANI PER THE EMAIL ADDRESS?

12:52PM 1 MR. SCHENK: PRECISELY.

12:52PM 2 THE COURT: ALL RIGHT. FOR THAT LIMITED PURPOSE --

12:52PM 3 I'LL OVERRULE THE OBJECTION.

12:52PM 4 AND FOR THAT LIMITED PURPOSE, LADIES AND GENTLEMEN, THESE

12:52PM 5 ARE BEING ADMITTED, THIS EMAIL IS BEING ADMITTED FOR THE

12:52PM 6 LIMITED PURPOSE OF KNOWLEDGE, THAT IS, KNOWLEDGE AS TO THE

12:52PM 7 RECIPIENT OF THE EMAIL, AND FOR THAT LIMITED PURPOSE ONLY.

12:53PM 8 MR. SCHENK: THANK YOU. PERMISSION TO PUBLISH JUST

12:53PM 9 THE TOP EMAIL?

12:53PM 10 THE COURT: YES.

12:53PM 11 (GOVERNMENT'S EXHIBIT 291, TOP EMAIL AND ATTACHMENT, WAS

12:53PM 12 RECEIVED IN EVIDENCE.)

12:53PM 13 BY MR. SCHENK:

12:53PM 14 Q. DR. CULLEN, I'M SHOWING YOU AN EMAIL THAT SAYS FROM

12:53PM 15 ELIZABETH HOLMES IN THE CAPTION.

12:53PM 16 DO YOU SEE THAT?

12:53PM 17 A. I DO.

12:53PM 18 Q. AND IT'S TO SOMEONE THAT APPEARS TO BE ALEX.JUNG --

12:53PM 19 J-U-N-G -- @WALGREENS.COM.

12:53PM 20 DO YOU SEE THAT?

12:53PM 21 A. YES, I DO.

12:53PM 22 Q. AND THEN ON THE CC LINE SOMEONE NAMED JAY.ROSAN@WALGREENS,

12:53PM 23 AND THEN SUNNY BALWANI.

12:53PM 24 DO YOU SEE THAT?

12:53PM 25 A. I DO.

12:53PM 1 Q. AND IN THE EMAIL IT APPEARS THAT THERE ARE THREE  
12:53PM 2 ATTACHMENTS. DO YOU SEE THE ATTACHMENTS LISTED UNDERLINED?  
12:53PM 3 A. I DO.  
12:53PM 4 Q. AND THEN IN THE BODY, THE FIRST PARAGRAPH READS, "DR. JAY,  
12:53PM 5 ALEX,  
12:53PM 6 "AS PER OUR DISCUSSION, PLEASE FIND THREE INDEPENDENT DUE  
12:53PM 7 DILIGENCE REPORTS ON THERANOS SYSTEMS ATTACHED TO THIS EMAIL.  
12:53PM 8 THESE REPORTS ARE FROM GLAXOSMITHKLINE, PFIZER, AND  
12:54PM 9 SCHERING-PLough AFTER THEIR OWN TECHNICAL VALIDATION AND  
12:54PM 10 EXPERIENCE WITH THERANOS SYSTEMS IN THE FIELD. PLEASE NOTE  
12:54PM 11 THAT THESE DOCUMENTS ARE STRICTLY CONFIDENTIAL UNDER OUR CDA."  
12:54PM 12 DID I READ THAT CORRECTLY?  
12:54PM 13 A. YES.  
12:54PM 14 Q. DR. CULLEN, WOULD YOU NOW TURN TO PAGE 34 OF THIS EXHIBIT?  
12:54PM 15 EARLIER IN YOUR TESTIMONY WE TALKED ABOUT AN OCCASION WHEN  
12:54PM 16 YOU REACHED OUT TO THERANOS TO OBTAIN A REPORT.  
12:54PM 17 DO YOU REMEMBER THAT?  
12:54PM 18 A. YES.  
12:54PM 19 Q. WAS THAT AN ASSAY DEVELOPMENT REPORT?  
12:54PM 20 A. YES.  
12:54PM 21 Q. AND WAS THAT A REPORT INVOLVING THE IL-6, THE TNF-ALPHA,  
12:54PM 22 AND CRP ASSAYS?  
12:55PM 23 A. THAT'S CORRECT.  
12:55PM 24 Q. AND ARE WE NOW LOOKING AT A VERSION OF AN ASSAY  
12:55PM 25 DEVELOPMENT REPORT INVOLVING THOSE ASSAYS?

12:55PM 1 A. YES.

12:55PM 2 Q. ON THIS PORTION OF THE REPORT, I'M GOING TO ASK YOU WHAT

12:55PM 3 LOGO YOU SEE AT THE VERY TOP ON THE LEFT.

12:55PM 4 MS. WALSH: OBJECTION.

12:55PM 5 THE COURT: OVERRULED FOR THE REASONS PREVIOUSLY

12:55PM 6 STATED AS TO THE ADMISSIBILITY OF THIS.

12:55PM 7 AGAIN, IT'S ONLY AS TO KNOWLEDGE OF THE RECIPIENT AND NOT

12:55PM 8 FOR THE TRUTH OF ANY MATTERS ASSERTED IN THIS.

12:55PM 9 THE WITNESS: THE LOGO IS SCHERING-PLOUGH.

12:55PM 10 BY MR. SCHENK:

12:55PM 11 Q. AND AT THE VERY TOP ON THE RIGHT ACROSS FROM THAT LOGO, DO

12:55PM 12 YOU SEE ANOTHER LOGO?

12:55PM 13 A. YES, THERANOS.

12:55PM 14 Q. DR. CULLEN, IF YOU'LL NOW TURN TO PAGE 51.

12:55PM 15 DO YOU SEE A CONCLUSIONS SECTION?

12:55PM 16 A. I DO.

12:55PM 17 Q. IN THE FIRST SENTENCE DOES IT NOW READ, "THE THERANOS

12:56PM 18 IL-6, TNF-ALPHA, CRP ASSAY MULTIPLEX HAS BEEN SHOWN TO GIVE

12:56PM 19 MORE ACCURATE AND PRECISE RESULTS FOR THREE INDEPENDENTLY

12:56PM 20 CALIBRATED CARTRIDGE LOTS AND ALL THE MANY INSTRUMENTS USED

12:56PM 21 THAN CURRENT 'GOLD STANDARD' REFERENCE METHODS"?

12:56PM 22 A. YES.

12:56PM 23 Q. DR. CULLEN, DID ANYBODY FROM THERANOS EVER ASK YOU

12:56PM 24 PERMISSION TO AFFIX A SCHERING-PLOUGH LOGO TO THE THERANOS

12:56PM 25 ASSAY DEVELOPMENT REPORT?

12:56PM 1 MS. WALSH: OBJECTION. 106.

12:56PM 2 THE COURT: YOU'RE ASKING AGAIN THAT THIS COME IN

12:56PM 3 SOLELY FOR THE KNOWLEDGE OF -- EXCUSE ME, KNOWLEDGE AS TO THE

12:56PM 4 RECIPIENTS OF THE EMAIL?

12:57PM 5 MR. SCHENK: YES.

12:57PM 6 THE COURT: RIGHT. OVERRULED.

12:57PM 7 YOU CAN ANSWER THE QUESTION.

12:57PM 8 THE WITNESS: OKAY. THANK YOU.

12:57PM 9 THERANOS DID NOT ASK PERMISSION TO USE THE SCHERING-PLOUGH

12:57PM 10 LOGO ON ANY OF THE REPORTS.

12:57PM 11 MR. SCHENK: YOUR HONOR, I HAVE -- MAY I APPROACH?

12:57PM 12 THE COURT: YES.

12:57PM 13 MR. SCHENK: (HANDING.)

12:58PM 14 Q. DR. CULLEN, I'VE HANDED YOU ANOTHER TAB. THIS ONE IS

12:58PM 15 EXHIBIT 277.

12:58PM 16 DO YOU SEE THAT?

12:58PM 17 A. YES.

12:58PM 18 Q. AND AGAIN, IS THIS AN EMAIL THREAD -- YOU CAN TAKE A

12:58PM 19 MOMENT TO LOOK THROUGH IT -- BUT YOU ARE NOT ON THIS EMAIL

12:58PM 20 THREAD; IS THAT CORRECT?

12:58PM 21 A. THAT'S CORRECT.

12:58PM 22 MR. SCHENK: YOUR HONOR, ONCE AGAIN, THE GOVERNMENT

12:58PM 23 INTENDS TO OFFER ONLY THE VERY TOP EMAIL AND THE ATTACHMENT IN

12:58PM 24 LIGHT OF OUR DISCUSSION.

12:58PM 25 THE PURPOSE IS THE SAME, FOR THE KNOWLEDGE OF THE

12:58PM 1 RECIPIENT ON THE CC LINE AS WE DISCUSSED ON THE MARCH 19TH  
12:58PM 2 EMAIL EARLIER.

12:59PM 3 THE COURT: MS. WALSH.

12:59PM 4 MS. WALSH: OBJECTION. 106, 403, AND OUR PENDING  
12:59PM 5 MOTION.

12:59PM 6 THE COURT: ALL RIGHT. THANK YOU.

12:59PM 7 YOU'RE STRIKING THE BOTTOM EMAIL AND WANT JUST THE TOP?

12:59PM 8 MR. SCHENK: YES, YOUR HONOR. SO ON PAGE 1, JUST  
12:59PM 9 THAT VERY TOP EMAIL, AND THEN WE'LL PICK BACK UP ON PAGE 4,  
12:59PM 10 WHICH IS WHERE THE ATTACHMENT BEGINS.

12:59PM 11 THE COURT: ALL RIGHT. THANK YOU.

12:59PM 12 I'LL OVERRULE THE OBJECTION.

12:59PM 13 THIS IS BEING ADMITTED, AGAIN, LADIES AND GENTLEMEN, NOT  
12:59PM 14 FOR THE TRUTH OF THE MATTER ASSERTED, BUT ONLY AS TO THE ISSUE  
12:59PM 15 OF KNOWLEDGE, KNOWLEDGE OF THE RECIPIENT OF THIS EMAIL, FOR  
12:59PM 16 THAT LIMITED PURPOSE ONLY.

12:59PM 17 AND YOU'LL STRIKE THE BOTTOM, AND IT'S OTHERWISE ADMITTED.

12:59PM 18 (GOVERNMENT'S EXHIBIT 277, TOP EMAIL AND ATTACHMENT, WAS  
01:00PM 19 RECEIVED IN EVIDENCE.)

01:00PM 20 MR. SCHENK: THANK YOU. AND OTHERWISE PERMISSION TO  
01:00PM 21 PUBLISH?

01:00PM 22 THE COURT: YES.

01:00PM 23 BY MR. SCHENK:

01:00PM 24 Q. DR. CULLEN, IF YOU'LL LOOK AT THE EMAIL EITHER IN FRONT OF  
01:00PM 25 YOU OR ON THE SCREEN, DOES IT APPEAR TO BE AN EMAIL FROM

01:00PM 1 ELIZABETH HOLMES TO SOMEONE NAMED BRUCESHEPHERD@WAL-MART.COM.

01:00PM 2 DO YOU SEE THAT?

01:00PM 3 A. YES.

01:00PM 4 Q. AND THEN ON THE CC LINE, IS THERE SOMEONE NAMED

01:00PM 5 SUNNY BALWANI?

01:00PM 6 A. YES.

01:00PM 7 Q. AND THEN DO YOU SEE AN ATTACHMENT TO THIS EMAIL?

01:00PM 8 A. YES.

01:00PM 9 Q. AND IF YOU'LL NOW TURN TO PAGE 4 OF THE DOCUMENT, THE

01:00PM 10 FIRST PAGE OF THE ATTACHMENT.

01:00PM 11 DO YOU RECOGNIZE THIS DOCUMENT?

01:00PM 12 A. YES.

01:00PM 13 Q. AND WHAT IS THIS?

01:00PM 14 A. IT'S THE SAME VALIDATION REPORT OR ASSAY DEVELOPMENT

01:00PM 15 REPORT THAT WAS PROVIDED TO US, SCHERING-PLOUGH.

01:00PM 16 Q. OKAY. AT THE VERY TOP OF THIS VERSION OF THE DOCUMENT, ON

01:00PM 17 THE LEFT-HAND SIDE IN THE HEADER, DO YOU SEE A LOGO?

01:00PM 18 A. YES.

01:00PM 19 Q. WHOSE LOGO?

01:00PM 20 A. THERANOS.

01:00PM 21 Q. I'M SORRY. WHOSE LOGO?

01:01PM 22 A. THERANOS.

01:01PM 23 Q. ACROSS FROM THE THERANOS LOGO ON THIS VERSION, DO YOU SEE

01:01PM 24 ANY OTHER LOGOS?

01:01PM 25 A. NO OTHER LOGO.

01:01PM 1 Q. THANK YOU.

01:01PM 2 IN ADDITION TO TRAVELLING TO PALO ALTO AS PART OF YOUR DUE

01:01PM 3 DILIGENCE, WAS THERE AN OCCASION WHEN THERANOS PROVIDED ITS

01:01PM 4 TECHNOLOGY TO YOUR LAB IN NEW JERSEY?

01:01PM 5 A. YES. WE RECEIVED TWO INSTRUMENTS FROM THEM.

01:01PM 6 Q. WAS THAT AT THE SAME TIME THAT THIS DUE DILIGENCE WORK WAS

01:01PM 7 GOING ON?

01:01PM 8 A. I BELIEVE IT WAS PRIOR, BUT CLOSE TO THE SAME TIME.

01:01PM 9 Q. OKAY. AND FOR WHAT PURPOSE DID SCHERING-PLOUGH RECEIVE

01:01PM 10 THESE TWO DEVICES?

01:01PM 11 A. JUST FOR BETA TESTING PURPOSES.

01:01PM 12 Q. WHAT DOES THAT MEAN, BETA TESTING?

01:01PM 13 A. JUST TO BE ABLE TO TEST THE TECHNOLOGY UNDER OUR

01:01PM 14 CONDITIONS IN OUR LAB.

01:01PM 15 Q. AND DID YOU OR YOUR LAB DO THAT TESTING?

01:01PM 16 A. YES, WE DID.

01:01PM 17 Q. HOW DID YOU DO THAT? WHAT, IN FACT, DID YOU DO?

01:02PM 18 A. SO WE SPIKE ONE OF THE ANALYTES, EITHER TNF OR

01:02PM 19 INTERLEUKIN-6, OR C REACTIVE PROTEIN INTO HUMAN BLOOD

01:02PM 20 SPECIMENS, AND THEN WE MEASURE THEM.

01:02PM 21 Q. DID YOU SAY SPIKED?

01:02PM 22 A. YES. SPIKED JUST MEANS THAT YOU CAN PURCHASE PURIFIED

01:02PM 23 REAGENTS AND PUT THEM INTO THE HUMAN SERUM SAMPLE SO THAT YOU

01:02PM 24 KNOW THE EXACT AMOUNT IN EACH SAMPLE THAT YOU'RE GOING TO TEST.

01:02PM 25 Q. DO YOU KNOW HOW MANY SAMPLES SCHERING-PLOUGH RAN ON THESE

01:02PM 1 THERANOS DEVICES?

01:02PM 2 A. I DON'T REMEMBER, NO.

01:02PM 3 Q. WOULD YOU CALL THE WORK THAT SCHERING-PLOUGH DID ON THESE

01:02PM 4 THERANOS DEVICES VALIDATION?

01:02PM 5 A. NO.

01:03PM 6 Q. WHY NOT?

01:03PM 7 A. THEY WERE INSUFFICIENT DETERMINATIONS. WE DIDN'T DO

01:03PM 8 ENOUGH TESTS. IT WAS SIMPLY A SUPERFICIAL LOOK AT THE

01:03PM 9 CAPABILITY OF THE INSTRUMENT.

01:03PM 10 Q. AFTER RUNNING THESE TESTS ON THE THERANOS DEVICES, DID YOU

01:03PM 11 EVER TELL ANYBODY AT THERANOS THAT SCHERING-PLOUGH HAD NOW

01:03PM 12 VALIDATED THERANOS'S TECHNOLOGY OR THERANOS'S DEVICES?

01:03PM 13 A. NO.

01:03PM 14 Q. TO YOUR KNOWLEDGE, DID ANYBODY FROM SCHERING-PLOUGH, AFTER

01:03PM 15 TESTING THESE DEVICES AT SCHERING-PLOUGH, EVER TELL SOMEONE AT

01:03PM 16 THERANOS THAT SCHERING-PLOUGH HAD VALIDATE THERANOS'S

01:03PM 17 TECHNOLOGY?

01:03PM 18 A. NO.

01:03PM 19 MR. SCHENK: MAY I HAVE ONE MOMENT, YOUR HONOR?

01:03PM 20 THE COURT: YES.

01:03PM 21 (DISCUSSION AMONGST GOVERNMENT COUNSEL OFF THE RECORD.)

01:04PM 22 MR. SCHENK: THANK YOU, YOUR HONOR.

01:04PM 23 NO FURTHER QUESTIONS.

01:04PM 24 THE COURT: CROSS-EXAMINATION?

01:04PM 25 MS. WALSH: YES, YOUR HONOR.

01:04PM 1 MAY I APPROACH THE BENCH, YOUR HONOR?

01:04PM 2 THE COURT: YES, YES. THANK YOU.

01:04PM 3 MS. WALSH: (HANDING.)

01:04PM 4 MAY I APPROACH THE WITNESS, YOUR HONOR?

01:05PM 5 THE COURT: YES, YES, OF COURSE.

01:05PM 6 MS. WALSH: THANK YOU.

01:05PM 7 (HANDING.)

01:05PM 8 **CROSS-EXAMINATION**

01:05PM 9 BY MS. WALSH:

01:05PM 10 Q. GOOD AFTERNOON, DR. CULLEN.

01:05PM 11 LET ME REMOVE MY MASK. MY NAME IS AMY WALSH AND I

01:05PM 12 REPRESENT MR. BALWANI.

01:05PM 13 I'M GOING TO ASK YOU SOME QUESTIONS, AND I'M GOING TO ASK

01:05PM 14 YOU SOME QUESTIONS ABOUT YOUR DIRECT TESTIMONY. OKAY?

01:05PM 15 SO YOU WERE ASKED WHETHER -- ABOUT THAT MAY 2009 MEETING,

01:05PM 16 WHETHER MR. BALWANI WAS PRESENT DURING THAT MEETING, AND YOU

01:05PM 17 SAID YOU DON'T REMEMBER; IS THAT RIGHT?

01:05PM 18 A. YES.

01:05PM 19 Q. AND YOU SAID THAT YOU DID NOT KNOW HIS NAME; IS THAT

01:05PM 20 CORRECT?

01:05PM 21 A. THAT'S CORRECT.

01:05PM 22 Q. AND MR. SCHENK ASKED YOU, IS IT POSSIBLE THAT YOU NEVER

01:05PM 23 MET MR. BALWANI; RIGHT?

01:05PM 24 AND YOU SAID YES, THAT'S POSSIBLE; RIGHT?

01:05PM 25 A. CORRECT.

01:06PM 1 Q. AND, IN FACT, YOU'VE NEVER MET MR. BALWANI; CORRECT?

01:06PM 2 A. NOT TO MY RECOLLECTION.

01:06PM 3 Q. WELL, YOU DON'T RECOGNIZE HIM IN THE COURTROOM TODAY?

01:06PM 4 A. NO.

01:06PM 5 Q. AND IN ALL OF YOUR COMMUNICATIONS WITH THERANOS, YOU DID

01:06PM 6 NOT SPEAK WITH MR. BALWANI; IS THAT RIGHT?

01:06PM 7 A. CORRECT.

01:06PM 8 Q. YOU DIDN'T EMAIL WITH HIM; CORRECT?

01:06PM 9 A. CORRECT.

01:06PM 10 Q. AND IN ALL OF THE EMAILS THAT MR. SCHENK SHOWED YOU DURING

01:06PM 11 YOUR DIRECT TESTIMONY, MR. BALWANI WAS NOT ON ANY OF THOSE

01:06PM 12 EMAILS; RIGHT?

01:06PM 13 A. CORRECT.

01:06PM 14 Q. AND WERE YOU AWARE THAT DURING THE FIRST HALF OF 2009,

01:06PM 15 MR. BALWANI DIDN'T EVEN WORK FOR THERANOS? WERE YOU AWARE OF

01:06PM 16 THAT?

01:06PM 17 A. NO.

01:06PM 18 Q. OKAY. AND YOU JUST TESTIFIED ABOUT THE EARLY 2009 TIME

01:06PM 19 PERIOD WHEN THERANOS PROVIDED SCHERING-PLOUGH WITH THE TWO

01:06PM 20 DEVICES.

01:06PM 21 DO YOU REMEMBER THAT TESTIMONY?

01:07PM 22 A. YES.

01:07PM 23 Q. AND YOU SAID THAT YOU SPIKED THE SAMPLE. I GUESS IT WAS

01:07PM 24 RUN IN THE MACHINE; IS THAT RIGHT?

01:07PM 25 A. YES.

01:07PM 1 Q. OKAY. AND SO THERANOS SENT SCHERING-PLOUGH TWO OF ITS  
01:07PM 2 DEVICES; CORRECT?  
01:07PM 3 A. CORRECT.  
01:07PM 4 Q. AND SCHERING-PLOUGH HAD THOSE DEVICES INDEPENDENT OF  
01:07PM 5 THERANOS; RIGHT?  
01:07PM 6 A. I DON'T KNOW WHAT YOU MEAN BY INDEPENDENT OF THERANOS.  
01:07PM 7 Q. YEAH. I'LL ASK A DIFFERENT QUESTION. THANKS.  
01:07PM 8 THERANOS DID NOT SUPERVISE SCHERING-PLOUGH WHEN  
01:07PM 9 SCHERING-PLOUGH SPIKED THE SAMPLES --  
01:07PM 10 A. CORRECT.  
01:07PM 11 Q. -- AND RAN THEM IN THE DEVICES?  
01:07PM 12 THE COURT: DR. CULLEN, I'M GOING TO ASK YOU TO WAIT  
01:07PM 13 UNTIL THE QUESTION IS FINISHED.  
01:07PM 14 THE WITNESS: OKAY.  
01:07PM 15 THE COURT: AND THEN ANSWER. THAT WAY IT WILL MAKE  
01:07PM 16 OUR REPORTER MUCH HAPPIER AS WELL, SO THANK YOU.  
01:07PM 17 BY MS. WALSH:  
01:07PM 18 Q. AND I'LL WAIT UNTIL YOUR ANSWER IS FINISHED, WHICH WILL  
01:07PM 19 HELP.  
01:07PM 20 SO SCHERING-PLOUGH HAD THE DEVICES; CORRECT?  
01:07PM 21 A. CORRECT.  
01:07PM 22 Q. AND INDEPENDENT OF THERANOS, SCHERING-PLOUGH COULD RUN THE  
01:08PM 23 SAMPLES WHENEVER IT WANTED; RIGHT?  
01:08PM 24 A. CORRECT.  
01:08PM 25 Q. AND IT COULD EVALUATE THE RESULTS INDEPENDENT OF THERANOS;

01:08PM 1 CORRECT?

01:08PM 2 A. THAT'S NOT CORRECT, BECAUSE THE INSTRUMENT ITSELF DID NOT

01:08PM 3 HAVE A READOUT FOR RESULTS. THEY HAD TO BE SENT TO US.

01:08PM 4 Q. THE RESULTS HAD TO BE SENT TO YOU?

01:08PM 5 A. CORRECT.

01:08PM 6 Q. FROM THERANOS?

01:08PM 7 A. CORRECT.

01:08PM 8 Q. OKAY. BUT THE DEVICE ITSELF YOU HAD IN YOUR POSSESSION;

01:08PM 9 RIGHT?

01:08PM 10 A. CORRECT.

01:08PM 11 Q. AND YOU COULD RUN THE DEVICE; CORRECT?

01:08PM 12 A. CORRECT.

01:08PM 13 Q. AND YOU DIDN'T HAVE SOMEONE FROM THERANOS SUPERVISING THAT

01:08PM 14 PROCESS?

01:08PM 15 A. ALL CORRECT.

01:08PM 16 Q. OKAY. AND YOU SAID THAT YOU TOOK A SUPERFICIAL LOOK AT

01:08PM 17 THE CAPABILITY OF THE MACHINE; IS THAT RIGHT?

01:08PM 18 A. YES.

01:08PM 19 Q. JUST NOW?

01:08PM 20 BUT, IN FACT, WHEN YOU DID TAKE WHATEVER LOOK YOU DID TAKE

01:08PM 21 AT THE MACHINE, YOU WERE -- YOUR TEAM WAS IMPRESSED WITH THE

01:08PM 22 MACHINE'S SENSITIVITY; ISN'T THAT RIGHT?

01:09PM 23 A. THAT IS CORRECT.

01:09PM 24 Q. OKAY. AND AS FAR AS YOU COULD TELL, THE MACHINE PROVIDED

01:09PM 25 ACCURATE RESULTS; RIGHT?

01:09PM 1 A. AS FAR AS WE COULD TELL, YES.

01:09PM 2 Q. NOW, IN THE SPRING OF 2009, YOU SAID YOU WENT TO A MEETING

01:09PM 3 AT THERANOS IN CALIFORNIA; RIGHT?

01:09PM 4 A. THAT'S CORRECT.

01:09PM 5 Q. AND YOU FLEW HERE FROM NEW JERSEY?

01:09PM 6 A. CORRECT.

01:09PM 7 Q. AND THE PURPOSE OF THAT MEETING WAS TO HAVE A DISCUSSION

01:09PM 8 ABOUT THE THERANOS TECHNOLOGY; RIGHT?

01:09PM 9 A. THAT'S CORRECT.

01:09PM 10 Q. AND YOU WANTED TO TALK ABOUT THE CHEMISTRY IN THE ASSAYS;

01:09PM 11 RIGHT?

01:09PM 12 A. CORRECT.

01:09PM 13 Q. AND, IN FACT, IT WAS -- IT WASN'T JUST ONE ASSAY, IT WAS

01:09PM 14 THREE DIFFERENT ASSAYS; RIGHT?

01:09PM 15 A. IT WAS THOSE THREE ASSAYS. BUT IN ADDITION, WE WERE

01:09PM 16 INTERESTED IN PURSUING IT FOR POTENTIALLY OTHER ANALYTES,

01:09PM 17 INCLUDING PROPRIETARY.

01:09PM 18 Q. OKAY. BUT THE ASSAYS THAT YOU RAN, THERE WERE THREE

01:10PM 19 DIFFERENT ASSAYS; CORRECT?

01:10PM 20 A. CORRECT.

01:10PM 21 Q. AND THOSE THREE DIFFERENT ASSAYS RAN ON ONE CARTRIDGE; IS

01:10PM 22 THAT RIGHT?

01:10PM 23 A. THAT IS CORRECT.

01:10PM 24 Q. OKAY. SO WHEN YOU CAME TO CALIFORNIA IN MAY OF 2009, THE

01:10PM 25 MEETING, THE PURPOSE OF THE MEETING WAS TO DISCUSS THE SCIENCE

01:10PM 1 OF THE ASSAYS; CORRECT?

01:10PM 2 A. CORRECT.

01:10PM 3 Q. OKAY. AND IF WE CAN PULL UP WHAT IS IN EVIDENCE AS

01:10PM 4 EXHIBIT 192.

01:10PM 5 AND THIS IS THE CALENDAR INVITE AND AGENDA FOR THAT

01:10PM 6 MEETING; CORRECT?

01:10PM 7 A. YES.

01:10PM 8 Q. AND IF WE CAN GO TO THE SECOND PAGE, THAT'S THE AGENDA,

01:10PM 9 AND I WANT TO FOCUS IN ON THE SCHERING-PLOUGH PARTICIPANTS IN

01:10PM 10 THAT MEETING.

01:10PM 11 SO ONE OF THE PARTICIPANTS WAS DR. ABUTARIF; IS THAT

01:11PM 12 RIGHT?

01:11PM 13 A. YES.

01:11PM 14 Q. AND HE WAS A PH.D. AND A SCIENTIST; CORRECT?

01:11PM 15 A. CORRECT.

01:11PM 16 Q. AND THERE WAS A DR. FICK, WHO WAS A MEDICAL DOCTOR; RIGHT?

01:11PM 17 A. YES.

01:11PM 18 Q. AND A DR. GHEYAS; CORRECT?

01:11PM 19 A. CORRECT.

01:11PM 20 Q. WITH A PH.D. IN STATISTICS?

01:11PM 21 A. CORRECT.

01:11PM 22 Q. AND A DR. VAN HOOGSTRATEN; CORRECT?

01:11PM 23 A. CORRECT.

01:11PM 24 Q. WHO IS BOTH A DOCTOR AND A PH.D.; RIGHT?

01:11PM 25 A. THAT IS CORRECT.

01:11PM 1 Q. AND LET'S LOOK AT THE PEOPLE WHO ATTENDED ON BEHALF OF  
01:11PM 2 THERANOS.  
01:11PM 3 THERE'S DR. IAN GIBBONS; CORRECT?  
01:11PM 4 A. YES.  
01:11PM 5 Q. AND HE'S A PH.D.?  
01:11PM 6 A. CORRECT.  
01:11PM 7 Q. AND DR. MICHELSON, ALSO A PH.D.; RIGHT?  
01:11PM 8 A. RIGHT.  
01:11PM 9 Q. AND DR. THIBONNIER; CORRECT?  
01:11PM 10 A. CORRECT.  
01:11PM 11 Q. AND ALSO HE WAS AN M.D.; RIGHT?  
01:11PM 12 A. CORRECT.  
01:11PM 13 Q. AND ACTUALLY THE CHIEF MEDICAL OFFICER OF THERANOS AT THE  
01:12PM 14 TIME; RIGHT?  
01:12PM 15 A. CORRECT.  
01:12PM 16 Q. AND THEN DR. YOUNG, WHO WAS A PH.D.  
01:12PM 17 DO YOU SEE HIM?  
01:12PM 18 A. CORRECT.  
01:12PM 19 Q. AND SO THIS WAS A MEETING REALLY AMONG THE SCIENTISTS  
01:12PM 20 BETWEEN SCHERING-PLough AND THERANOS; CORRECT?  
01:12PM 21 A. THAT IS CORRECT.  
01:12PM 22 Q. AND THIS IS A MEETING WHERE YOU FELT THAT, OR YOU  
01:12PM 23 TESTIFIED THAT YOU HAD SOME ISSUES WITH MS. HOLMES'S CANDOR; IS  
01:12PM 24 THAT RIGHT?  
01:12PM 25 A. THAT'S CORRECT.

01:12PM 1 Q. AND YOU SAID ON DIRECT THAT YOU DIDN'T FEEL THAT SHE WAS  
01:12PM 2 ANSWERING THE QUESTIONS ADEQUATELY; IS THAT RIGHT?  
01:12PM 3 A. THAT'S CORRECT.  
01:12PM 4 Q. AND YOU FELT LIKE YOU COULDN'T GET A CERTAIN LEVEL OF  
01:12PM 5 DISCLOSURE FROM THERANOS AT THE TIME; CORRECT?  
01:12PM 6 A. CORRECT.  
01:12PM 7 Q. BUT YOU DID NOT SAY ANYTHING DURING THAT MEETING ABOUT NOT  
01:12PM 8 GETTING YOUR QUESTIONS ANSWERED; RIGHT?  
01:12PM 9 A. CORRECT.  
01:12PM 10 Q. YOU NEVER TOLD MS. HOLMES; CORRECT?  
01:12PM 11 A. CORRECT.  
01:12PM 12 Q. AND YOU NEVER TOLD ANY OF THE SCIENTISTS WHO PARTICIPATED  
01:13PM 13 IN THAT MEETING; CORRECT?  
01:13PM 14 A. THAT'S CORRECT.  
01:13PM 15 Q. AND YOU SAID YOU DIDN'T DO THAT BECAUSE IT FELT AWKWARD AT  
01:13PM 16 THE TIME; CORRECT?  
01:13PM 17 A. CORRECT.  
01:13PM 18 Q. BUT THE FACT IS THAT YOU NEVER EXPRESSED YOUR VIEWS?  
01:13PM 19 A. THAT IS CORRECT.  
01:13PM 20 Q. OKAY. AND MR. BALWANI WAS NOT AT THIS MEETING; CORRECT?  
01:13PM 21 A. CORRECT.  
01:13PM 22 Q. OKAY. AND MR. SCHENK SHOWED YOU EXHIBIT 223, WHICH WAS A  
01:13PM 23 JUNE 2009 EMAIL.  
01:13PM 24 YES, IF WE CAN PULL THAT UP.  
01:13PM 25 AND ON THE BOTTOM EMAIL, DR. CULLEN, IN JUNE OF 2009, YOU

01:13PM 1 ARE EMAILING GARY FRENZEL FROM THERANOS; RIGHT?

01:14PM 2 A. CORRECT.

01:14PM 3 Q. AND THE SUBJECT IS ASSAY DEVELOPMENT; RIGHT?

01:14PM 4 A. YES.

01:14PM 5 Q. AND YOU SAY, "HI GARY,

01:14PM 6 "WE HAD A TEAM MEETING TODAY AND JIM MCCLEOD ASKED ME TO

01:14PM 7 CHECK IN AND GET AN ASSAY DEVELOPMENT UPDATE FOR THE TEAM.

01:14PM 8 COULD YOU GIVE ME A SYNOPSIS OF WHERE THINGS ARE AT AND IF YOU

01:14PM 9 NEED ANYTHING FROM OUR END?"

01:14PM 10 THAT'S WHAT YOU SAID; RIGHT?

01:14PM 11 A. CORRECT.

01:14PM 12 Q. AND YOU DIDN'T EXPRESS ANY OF THE VIEWS THAT YOU SAY YOU

01:14PM 13 HAD IN THE MEETING IN THIS EMAIL EITHER; RIGHT?

01:14PM 14 A. THAT IS CORRECT.

01:14PM 15 Q. YOU DIDN'T RAISE ANY QUESTIONS ABOUT THE THERANOS

01:14PM 16 TECHNOLOGY; RIGHT?

01:14PM 17 A. THAT IS CORRECT.

01:14PM 18 Q. AND YOU DIDN'T COMMENT ON MS. HOLMES'S CANDOR IN THIS

01:14PM 19 EMAIL; CORRECT?

01:14PM 20 A. CORRECT.

01:14PM 21 Q. OKAY. SO LET'S FAST FORWARD IN TIME TO DECEMBER 2009, AND

01:14PM 22 LET'S PULL UP WHAT IS IN EVIDENCE AS EXHIBIT 262.

01:15PM 23 AND IF WE GO FROM THE BOTTOM EMAIL FROM MR. FRENZEL TO YOU

01:15PM 24 AT 2:26 P.M., MR. FRENZEL EMAILS YOU SAYING, "HI CONNIE, I JUST

01:15PM 25 WANTED TO MAKE SURE THAT YOU RECEIVED THIS REPORT."

01:15PM 1 AND HE'S REFERRING TO THE REPORT THAT WE JUST LOOKED AT;

01:15PM 2 CORRECT?

01:15PM 3 A. THAT'S CORRECT.

01:15PM 4 Q. AND "WE ARE LOOKING FORWARD TO DISCUSSING IT WITH YOU."

01:15PM 5 AND THEN IF WE CAN GO TO THE NEXT EMAIL UP.

01:15PM 6 AND WHAT YOU SAY TO HIM IS, "HI GARY,

01:15PM 7 "I'M SORRY FOR THE SLOW RESPONSE. I DID RECEIVE THE

01:15PM 8 REPORT, I'D ACTUALLY LIKE TO DEFER OUR DISCUSSIONS UNTIL

01:15PM 9 JANUARY. WE ARE TOTALLY SWAMPED WITH THE MERGER WITH MERCK."

01:15PM 10 IS THAT RIGHT? IS THAT WHAT YOU WROTE?

01:15PM 11 A. CORRECT.

01:15PM 12 Q. OKAY. AND YOU SAID ON DIRECT THAT YOU ACTUALLY READ THE

01:15PM 13 REPORT AT THE TIME YOU SENT THIS EMAIL; IS THAT CORRECT?

01:16PM 14 A. THAT'S CORRECT.

01:16PM 15 Q. AND YOU AGAIN IN THIS EMAIL DID NOT VOICE ANY CONCERNS

01:16PM 16 ABOUT THE THERANOS TECHNOLOGY; IS THAT CORRECT?

01:16PM 17 A. THAT'S CORRECT.

01:16PM 18 Q. AND YOU DID NOT VOICE THE CONCERNS THAT YOU SAID YOU HAD

01:16PM 19 IN THE MEETING ABOUT MS. HOLMES'S CANDOR; RIGHT?

01:16PM 20 A. THAT IS CORRECT.

01:16PM 21 Q. OKAY. AND IT DOESN'T -- YOUR EMAIL DIDN'T SAY REALLY

01:16PM 22 ANYTHING ABOUT THE REPORT, WHETHER YOU THOUGHT IT WAS GOOD OR

01:16PM 23 BAD OR IF YOU HAD ISSUES WITH IT; CORRECT?

01:16PM 24 A. CORRECT.

01:16PM 25 Q. NOW, MR. SCHENK ASKED YOU --

01:16PM 1 WE CAN TAKE THAT DOWN, MR. ALLEN. THANK YOU.

01:16PM 2 YOU DEFERRED THE DISCUSSIONS IN THE EMAIL THAT WE JUST SAW

01:16PM 3 WITH MR. FRENZEL BECAUSE OF THE MERGER; RIGHT?

01:16PM 4 A. THAT'S CORRECT.

01:16PM 5 Q. AND MR. FRENZEL ASKED YOU IF YOU HAD ANY OTHER DISCUSSIONS

01:16PM 6 WITH THERANOS -- I'M SORRY, WITHDRAWN ON THAT.

01:16PM 7 MY QUESTION IS MR. SCHENK, DURING YOUR DIRECT EXAMINATION,

01:17PM 8 ASKED YOU IF YOU HAD ANY FURTHER CONVERSATIONS WITH THERANOS

01:17PM 9 AFTER DECEMBER 2009; CORRECT?

01:17PM 10 A. THAT IS CORRECT.

01:17PM 11 Q. AND YOU SAID NOT THAT I RECALL; RIGHT?

01:17PM 12 A. THAT IS CORRECT.

01:17PM 13 Q. BUT ISN'T IT TRUE, DR. CULLEN, THAT YOU RECONNECTED WITH

01:17PM 14 THERANOS IN MARCH OF 2010?

01:17PM 15 A. IF I DID, I DON'T REMEMBER IT.

01:17PM 16 Q. OKAY. AND I CAN SHOW YOU SOMETHING TO REFRESH YOUR

01:17PM 17 RECOLLECTION IF YOU NEED IT.

01:17PM 18 A. SURE.

01:17PM 19 Q. BUT DO YOU RECALL WRITING TO THERANOS THAT YOU ASKED A

01:17PM 20 SCIENTIST FROM YOUR GROUP TO REACH OUT TO GARY SO YOU COULD

01:17PM 21 DISCUSS THE REPORT?

01:17PM 22 DO YOU REMEMBER THAT?

01:17PM 23 A. YES.

01:17PM 24 Q. OKAY. SO CAN WE -- ACTUALLY, CAN YOU TURN IN YOUR EXHIBIT

01:17PM 25 BINDER TO EXHIBIT 10574. JUST LET ME KNOW WHEN YOU HAVE IT IN

01:18PM 1 FRONT OF YOU.

01:18PM 2 A. I HAVE IT.

01:18PM 3 Q. OKAY. DO YOU SEE THE EMAIL FROM YOU TO MS. HOLMES?

01:18PM 4 DO YOU SEE THAT?

01:18PM 5 A. YES.

01:18PM 6 Q. AND THIS IS ON MARCH 6TH, 2010?

01:18PM 7 A. YES.

01:18PM 8 Q. IS THAT AN EMAIL THAT YOU SENT TO MS. HOLMES AT THE TIME

01:18PM 9 THAT THE EMAIL SAYS YOU SENT IT?

01:18PM 10 A. YES.

01:18PM 11 MS. WALSH: YOUR HONOR, WE OFFER 10574.

01:18PM 12 MR. SCHENK: NO OBJECTION.

01:18PM 13 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

01:18PM 14 (DEFENDANT'S EXHIBIT 10574 WAS RECEIVED IN EVIDENCE.)

01:18PM 15 BY MS. WALSH:

01:18PM 16 Q. OKAY. DR. CULLEN, IN -- LET'S GO TO THE BOTTOM EMAIL FROM

01:18PM 17 MS. HOLMES.

01:18PM 18 WHAT SHE SAYS TO YOU IS -- AND AGAIN, THIS IS MARCH 5TH,

01:18PM 19 2010, A FEW MONTHS AFTER DECEMBER 2009. AND SHE SAYS,

01:19PM 20 "CONNIE --

01:19PM 21 "CAROLYN LET ME KNOW THAT YOU TWO CONNECTED -- I AM REALLY

01:19PM 22 LOOKING FORWARD TO OUR NEXT CONVERSATION. PLEASE LET ME KNOW

01:19PM 23 IF THERE IS ANYTHING WE CAN DO FROM OUR END TO HELP FACILITATE

01:19PM 24 THINGS MOVING FORWARD IN THE MEANTIME.

01:19PM 25 "CONGRATULATIONS ON YOUR NEW ROLE -- I WAS SO HAPPY TO

01:19PM 1 HEAR ABOUT IT."

01:19PM 2 DO YOU SEE THAT?

01:19PM 3 A. YES, I DO.

01:19PM 4 Q. AND SHE'S CONGRATULATING YOU ON YOUR NEW ROLE IN THE

01:19PM 5 MERGER; RIGHT?

01:19PM 6 A. YES.

01:19PM 7 Q. OKAY. AND IF WE GO UP TO THE NEXT PART OF THE CHAIN, YOU

01:19PM 8 RESPOND TO MS. HOLMES AND YOU SAY, "HI ELIZABETH,

01:19PM 9 "THANKS FOR THE NOTE BELOW. THINGS WILL SETTLE DOWN

01:19PM 10 EVENTUALLY. IN THE MEANTIME, I'VE ASKED A SCIENTIST FROM MY

01:19PM 11 GROUP (DON LEE) TO REACH OUT TO GARY TO DISCUSS THE SPECIFICS

01:19PM 12 OF THE VALIDATION."

01:19PM 13 DO YOU SEE THAT?

01:19PM 14 A. YES, I DO.

01:19PM 15 Q. OKAY. AND SO WHEN YOU TESTIFIED THAT YOU DIDN'T REMEMBER

01:20PM 16 ANY OTHER INTERACTION WITH THERANOS AFTER DECEMBER 2009, DOES

01:20PM 17 THIS REFRESH YOUR RECOLLECTION AS TO FURTHER COMMUNICATIONS

01:20PM 18 WITH THERANOS AFTER THAT POINT?

01:20PM 19 A. IT DOES.

01:20PM 20 Q. OKAY. AND AGAIN, IN THIS EMAIL IN MARCH OF 2010, YOU

01:20PM 21 DON'T EXPRESS ANY MISGIVINGS ABOUT THE THERANOS TECHNOLOGY;

01:20PM 22 CORRECT?

01:20PM 23 A. CORRECT.

01:20PM 24 Q. NOR ANY MISGIVINGS ABOUT MS. HOLMES'S CANDOR OR ABILITY TO

01:20PM 25 ANSWER QUESTIONS ABOUT THE THERANOS TECHNOLOGY; RIGHT?

01:20PM 1 A. CORRECT.

01:20PM 2 MS. WALSH: YOUR HONOR, MAY I HAVE A MOMENT?

01:20PM 3 THE COURT: YES.

01:20PM 4 (DISCUSSION AMONGST DEFENSE COUNSEL OFF THE RECORD.)

01:21PM 5 MS. WALSH: NOTHING FURTHER, YOUR HONOR.

01:21PM 6 THE COURT: MR. SCHENK.

01:21PM 7 MR. SCHENK: JUST BRIEFLY.

01:21PM 8 **REDIRECT EXAMINATION**

01:21PM 9 BY MR. SCHENK:

01:21PM 10 Q. DR. CULLEN, IN THIS FURTHER EMAIL THAT IS EXHIBIT 10574,

01:21PM 11 THE ONE YOU WERE DISCUSSING WITH MS. WALSH --

01:21PM 12 A. YES.

01:21PM 13 Q. -- WHERE MS. HOLMES WROTE TO YOU AND CONGRATULATED ON YOU

01:21PM 14 YOUR NEW ROLE AFTER THE MERGER, DID YOU RESPOND BY TELLING

01:21PM 15 MS. HOLMES THAT SCHERING-PLOUGH COMPREHENSIVELY VALIDATED

01:21PM 16 THERANOS'S TECHNOLOGY?

01:21PM 17 A. NO.

01:21PM 18 Q. DID YOU EVER SAY THAT TO MS. HOLMES?

01:21PM 19 A. NO.

01:21PM 20 Q. DID YOU EVER SAY THAT TO ANYBODY AT THERANOS?

01:21PM 21 A. NO.

01:21PM 22 Q. DID ANYBODY, TO YOUR KNOWLEDGE, FROM SCHERING-PLOUGH EVER

01:22PM 23 SAY THAT TO ANYBODY AT THERANOS?

01:22PM 24 A. NO.

01:22PM 25 Q. THANK YOU.

01:22PM 1 NO FURTHER QUESTIONS.

01:22PM 2 THE COURT: MS. WALSH?

01:22PM 3 MS. WALSH: NOTHING FURTHER.

01:22PM 4 THE COURT: MAY THIS WITNESS BE EXCUSED?

01:22PM 5 MR. SCHENK: YES.

01:22PM 6 THE COURT: MS. WALSH, MAY THIS WITNESS BE EXCUSED?

01:22PM 7 MS. WALSH: YES.

01:22PM 8 THE COURT: THANK YOU. DOCTOR, YOU'RE EXCUSED.

01:22PM 9 THANK YOU.

01:22PM 10 DOES THE GOVERNMENT HAVE ADDITIONAL WITNESSES AVAILABLE

01:22PM 11 TODAY?

01:22PM 12 MR. BOSTIC: YES, YOUR HONOR, WE DO.

01:22PM 13 THE UNITED STATES CALLED DANIEL EDLIN.

01:23PM 14 THE COURT: FOLKS, IF YOU WANT TO STAND AND STRETCH

01:23PM 15 FOR A MOMENT WHILE THE WITNESS COMES IN.

01:23PM 16 SIR, IF YOU WOULD COME AND STAND AND RAISE YOUR RIGHT

01:23PM 17 HAND.

01:23PM 18 **(GOVERNMENT'S WITNESS, DANIEL EDLIN, WAS SWORN.)**

01:23PM 19 THE WITNESS: YES.

01:23PM 20 THE COURT: PLEASE HAVE A SEAT HERE, SIR.

01:23PM 21 AND PLEASE BE SEATED EVERYONE.

01:23PM 22 THANK YOU.

01:23PM 23 MAKE YOURSELF COMFORTABLE. FEEL FREE TO ADJUST THAT

01:23PM 24 MICROPHONE AND THE CHAIR AS NEEDED FOR YOUR COMFORT.

01:23PM 25 WHEN YOU ARE COMFORTABLE, WOULD YOU PLEASE STATE YOUR NAME

01:23PM 1 AND THEN SPELL IT, PLEASE.

01:23PM 2 THE WITNESS: DANIEL EDLIN, D-A-N-I-E-L, E-D-L-I-N.

01:23PM 3 THE COURT: THANK YOU.

01:23PM 4 MR. BOSTIC.

01:23PM 5 MR. BOSTIC: THANK YOU, YOUR HONOR.

01:23PM 6 **DIRECT EXAMINATION**

01:23PM 7 BY MR. BOSTIC:

01:23PM 8 Q. GOOD AFTERNOON, MR. EDLIN.

01:23PM 9 A. GOOD AFTERNOON.

01:23PM 10 Q. I UNDERSTAND FROM THE COURT THAT YOU ARE PERMITTED TO

01:24PM 11 TESTIFY WITHOUT A MASK IF YOU ARE FULLY VACCINATED; IS THAT

01:24PM 12 CORRECT?

01:24PM 13 A. YES.

01:24PM 14 Q. MR. EDLIN, WAS THERE A TIME WHEN YOU WORKED FOR A COMPANY

01:24PM 15 CALLED THERANOS?

01:24PM 16 A. YES.

01:24PM 17 Q. DO YOU REMEMBER YOUR APPROXIMATE DATES OF EMPLOYMENT WITH

01:24PM 18 THE COMPANY?

01:24PM 19 A. I JOINED SEPTEMBER OF 2011 AND LEFT IN DECEMBER OF 2016.

01:24PM 20 Q. AND WHAT JOB TITLES DID YOU HAVE WHILE YOU WERE AT

01:24PM 21 THERANOS?

01:24PM 22 A. I WAS HIRED AS A SENIOR PROJECT MANAGER, AND I RECEIVED A

01:24PM 23 PROMOTION THREE YEARS LATER TO LEAD STRATEGIC OPERATIONS,

01:24PM 24 OFFICE OF THE CEO.

01:24PM 25 Q. AND I WANT TO TALK MORE ABOUT YOUR JOB RESPONSIBILITIES,

01:24PM 1 BUT FOR NOW, CAN YOU SUMMARIZE IN A FEW SENTENCES WHAT THOSE  
01:24PM 2 ROLES INVOLVED?

01:24PM 3 A. AS SENIOR PRODUCT MANAGER, I SUPPORTED KEY BUSINESS  
01:24PM 4 PARTNERSHIPS, INCLUDING THE WALGREENS PARTNERSHIP.

01:25PM 5 I ALSO SUPPORTED RELATIONSHIPS WITH COMPONENTS OF THE  
01:25PM 6 DEPARTMENT OF DEFENSE AND SOME PHARMACEUTICAL COMPANIES.

01:25PM 7 I WORKED WITH OTHER SENIOR PRODUCT MANAGERS TO SUPPORT  
01:25PM 8 WORK WITH MARKETING AND COMMUNICATIONS COMPANIES.

01:25PM 9 AND I ALSO COORDINATED TECHNOLOGY DEMONSTRATIONS.

01:25PM 10 Q. WHEN YOU LEFT THE COMPANY, DID YOU SAY THAT WAS END OF THE  
01:25PM 11 YEAR 2016?

01:25PM 12 A. CORRECT.

01:25PM 13 Q. WHAT WAS THE NATURE OF YOUR DEPARTURE FROM THE COMPANY?  
01:25PM 14 WERE YOU LAID OFF? WERE YOU FIRED? DID YOU QUIT?

01:25PM 15 MS. WALSH: OBJECTION. TIME PERIOD.

01:25PM 16 THE COURT: THE TIMING OF HIS -- WHEN HE LEFT?

01:25PM 17 MS. WALSH: YES.

01:25PM 18 THE COURT: DID YOU WANT TO MAYBE JUST ASK A  
01:25PM 19 QUESTION ABOUT THAT, WHEN HE LEFT JUST TO CLEAR THE RECORD.

01:25PM 20 MR. BOSTIC: SURE.

01:25PM 21 IS THE CONFUSION AS TO WHEN HE LEFT?

01:25PM 22 THE COURT: I THINK SO.

01:25PM 23 BY MR. BOSTIC:

01:25PM 24 Q. MR. EDLIN, WHEN DID YOU LEAVE THE COMPANY?

01:25PM 25 A. DECEMBER 2016.

01:26PM 1 Q. AND WHY DID YOU LEAVE THE COMPANY IN DECEMBER OF 2016?

01:26PM 2 MS. WALSH: OBJECTION. RELEVANCE.

01:26PM 3 THE COURT: OVERRULED.

01:26PM 4 YOU CAN ANSWER THE QUESTION.

01:26PM 5 THE WITNESS: I LEFT THE COMPANY FOR TWO MAIN

01:26PM 6 REASONS:

01:26PM 7 ONE, I WANTED TO GO TO BUSINESS SCHOOL, WHICH I DID; AND

01:26PM 8 TWO, I NO LONGER BELIEVED, BASED ON WHAT I WAS SEEING, THAT THE

01:26PM 9 COMPANY WAS CAPABLE OF STANDING BEHIND THE CLAIMS IT HAD BEEN

01:26PM 10 MAKING ABOUT THE TECHNOLOGY.

01:26PM 11 THIS WAS ABOUT A YEAR AFTER THE FIRST

01:26PM 12 "WALL STREET JOURNAL" ARTICLE CAME OUT. IN THAT PERIOD THE

01:26PM 13 COMPANY MADE SEVERAL ATTEMPTS TO PROVE ITS TECHNOLOGY, ALL OF

01:26PM 14 WHICH WERE UNSUCCESSFUL, AND I NO LONGER WANTED TO BE IN THAT

01:26PM 15 ENVIRONMENT.

01:26PM 16 BY MR. BOSTIC:

01:26PM 17 Q. UNDERSTOOD. I'LL WANT TO FOLLOW UP WITH YOU ON THAT

01:26PM 18 DECISION AND WHAT CAME BEHIND IT LATER.

01:26PM 19 BUT FOR NOW, CAN YOU GIVE US SOME INFORMATION ABOUT YOUR

01:26PM 20 BACKGROUND, STARTING WITH YOUR EDUCATION?

01:26PM 21 A. FOR MY UNDERGRADUATE I ATTENDED DUKE UNIVERSITY AND

01:27PM 22 MAJORED IN PUBLIC POLICY AND RECEIVED A CERTIFICATE IN MARKETS

01:27PM 23 AND MANAGEMENT STUDIES.

01:27PM 24 I ALSO RECEIVED MY MASTER'S OF BUSINESS ADMINISTRATION

01:27PM 25 FROM THE UCLA ANDERSON SCHOOL OF MANAGEMENT.

01:27PM 1 Q. AND IN BETWEEN OBTAINING THOSE DEGREES AND STARTING WORK  
01:27PM 2 AT THERANOS, DID YOU HAVE ANY OTHER EMPLOYMENT?  
01:27PM 3 A. MY FIRST JOB OUT OF COLLEGE WAS AS AN EQUITY RESEARCH AND  
01:27PM 4 SALES ASSISTANT AT TELSEY ADVISORY GROUP.  
01:27PM 5 Q. AND FOR HOW LONG WERE YOU THERE?  
01:27PM 6 A. ABOUT TWO YEARS.  
01:27PM 7 Q. SO LET'S TALK ABOUT HOW YOU CAME TO WORK AT THERANOS.  
01:27PM 8 HOW DID YOU FIRST FIND OUT ABOUT THE COMPANY?  
01:27PM 9 A. I FIRST FOUND OUT ABOUT THE COMPANY THROUGH  
01:27PM 10 ELIZABETH HOLMES'S BROTHER, CHRISTIAN. HE AND I ATTENDED DUKE  
01:27PM 11 TOGETHER, AND HE'S ONE OF MY CLOSEST FRIENDS, AND I KNEW THAT  
01:27PM 12 HIS SISTER HAD DROPPED OUT OF STANFORD TO START HER OWN  
01:27PM 13 COMPANY, WHICH IS THERANOS.  
01:27PM 14 Q. AND WHEN YOU FIRST HEARD ABOUT THERANOS, WAS IT IN  
01:28PM 15 CONNECTION WITH THE JOB THAT YOU EVENTUALLY CAME TO HAVE, OR  
01:28PM 16 DID YOU KNOW ABOUT IT BEFORE THEN?  
01:28PM 17 A. I KNEW ABOUT IT BEFORE THEN.  
01:28PM 18 Q. AND HOW DID YOU COME TO FIND OUT ABOUT THE POSSIBILITY  
01:28PM 19 THAT YOU MIGHT WORK AT THERANOS?  
01:28PM 20 A. ABOUT TWO YEARS AFTER I GRADUATED FROM COLLEGE, CHRISTIAN  
01:28PM 21 MOVED TO CALIFORNIA TO WORK AT THERANOS AND I KNEW THAT HE WAS  
01:28PM 22 DOING THAT.  
01:28PM 23 AND THEN A FEW MONTHS LATER, HE ACTUALLY GAVE ME A CALL TO  
01:28PM 24 TELL ME THAT THERE MIGHT BE AN OPPORTUNITY FOR ME TO JOIN THE  
01:28PM 25 COMPANY.

01:28PM 1 Q. CAN YOU PLACE THAT IN TIME FOR US? WHAT YEAR ARE WE  
01:28PM 2 TALKING ABOUT NOW?  
01:28PM 3 A. THIS WAS AROUND JUNE OF 2011.  
01:28PM 4 Q. AND WERE YOU INTERESTED IN THAT OPPORTUNITY?  
01:28PM 5 A. I WAS. IT SOUNDED LIKE A VERY EXCITING OPPORTUNITY WITH A  
01:28PM 6 LOT OF POTENTIAL. I DIDN'T RECEIVE A LOT OF INFORMATION ABOUT  
01:28PM 7 IT AT THE TIME, BUT IT SOUNDED LIKE SOMETHING WORTH PURSUING.  
01:29PM 8 Q. AND DID YOU PURSUE THE JOB BASED ON THAT INTEREST?  
01:29PM 9 A. I DID.  
01:29PM 10 Q. CAN YOU SUMMARIZE THE APPLICATION INTERVIEW PROCESS? WHAT  
01:29PM 11 WERE THE STEPS INVOLVED?  
01:29PM 12 A. AFTER I HAD SOME INITIAL DISCUSSIONS WITH CHRISTIAN, I WAS  
01:29PM 13 INVITED TO INTERVIEW AT THERANOS'S OFFICES.  
01:29PM 14 CHRISTIAN ALSO EXTENDED THE SAME OFFER TO A FEW OF OUR  
01:29PM 15 OTHER CLASSMATES FROM DUKE, AND A GROUP OF US WENT TO THE  
01:29PM 16 THERANOS OFFICES IN PALO ALTO TO INTERVIEW WITH SUNNY AND  
01:29PM 17 ELIZABETH, BOTH IN A GROUP SETTING AND ALSO ONE-ON-ONE.  
01:29PM 18 Q. AND APPROXIMATELY HOW MANY PEOPLE ARE WE TALKING ABOUT IN  
01:29PM 19 THIS GROUP OF COLLEGE CLASSMATES WHO WERE INTERVIEWING FOR THIS  
01:29PM 20 JOB AT THERANOS, OR THESE JOBS AT THERANOS?  
01:29PM 21 A. I THINK THERE WERE FOUR OTHER PEOPLE INITIALLY, AND THEN  
01:29PM 22 ABOUT A YEAR LATER ANOTHER GENTLEMAN JOINED.  
01:29PM 23 Q. AS PART OF THAT INTERVIEW PROCESS, DID YOU HAVE  
01:29PM 24 CONVERSATIONS WITH MR. BALWANI AND MS. HOLMES?  
01:29PM 25 A. YES.

01:29PM 1 Q. AND DID YOU SPEAK TO THEM SEPARATELY OR TOGETHER, IF YOU  
01:30PM 2 REMEMBER?

01:30PM 3 A. I REMEMBER SPEAKING WITH THEM TOGETHER IN A GROUP SETTING  
01:30PM 4 WITH THE OTHER PEOPLE WHO JOINED AS SENIOR PRODUCT MANAGERS,  
01:30PM 5 AND THEN I HAD A TWO-ON-ONE DISCUSSION, SO I MET WITH ELIZABETH  
01:30PM 6 AND SUNNY.

01:30PM 7 Q. AND EVENTUALLY WERE YOU OFFERED A POSITION AT THERANOS?

01:30PM 8 A. YES.

01:30PM 9 Q. AND YOU ACCEPTED?

01:30PM 10 A. CORRECT.

01:30PM 11 Q. AT THE TIME THAT YOU FIRST STARTED AT THE COMPANY, WHAT  
01:30PM 12 WAS YOUR UNDERSTANDING OF WHAT BUSINESS THE COMPANY WAS IN?

01:30PM 13 A. I UNDERSTOOD THAT THE COMPANY WAS IN THE LABORATORY  
01:30PM 14 TECHNOLOGY OR HEALTH CARE TECHNOLOGY BUSINESS, AND THAT THE  
01:30PM 15 COMPANY'S MISSION WAS TO MAKE ACCESS TO LAB TESTING MORE  
01:30PM 16 ACCESSIBLE TO PATIENTS, AND THAT THE PROPRIETARY UNDERLYING  
01:30PM 17 TECHNOLOGY WAS CONNECTED TO BEING ABLE TO DO LABORATORY TESTING  
01:30PM 18 ON A FINGERSTICK AND SMALL AMOUNT OF BLOOD.

01:30PM 19 Q. WHEN YOU WERE FIRST HIRED AT THE COMPANY, YOUR JOB TITLE  
01:31PM 20 WAS SENIOR PROJECT MANAGER YOU SAID?

01:31PM 21 A. CORRECT.

01:31PM 22 Q. CAN YOU DESCRIBE HOW THAT POSITION FITS INTO THE OVERALL  
01:31PM 23 ORGANIZATION OF THE COMPANY?

01:31PM 24 A. SO I JOINED A PRODUCT MANAGEMENT TEAM THAT ALREADY  
01:31PM 25 EXISTED, AND WHEN I JOINED, I REPORTED DIRECTLY TO

01:31PM 1 CHRISTIAN HOLMES, WHO WAS THE TEAM LEAD, AND THEN CHRISTIAN  
01:31PM 2 REPORTED UP TO SUNNY.

01:31PM 3 Q. AND FROM YOUR TIME AT THE COMPANY, DID YOU COME TO  
01:31PM 4 UNDERSTAND HOW MR. BALWANI AND MS. HOLMES FIT INTO THE OVERALL  
01:31PM 5 ORGANIZATION OF THE COMPANY?

01:31PM 6 A. YES.

01:31PM 7 Q. HOW WOULD YOU DESCRIBE THEIR ROLES?

01:31PM 8 A. SO ELIZABETH WAS THE CEO, AND SUNNY WAS THE PRESIDENT AND  
01:31PM 9 COO.

01:31PM 10 Q. OKAY. YOU MENTIONED THAT AT THE BEGINNING YOU WERE  
01:32PM 11 REPORTING TO CHRISTIAN HOLMES. IS THAT MS. HOLMES'S YOUNGER OR  
01:32PM 12 OLDER BROTHER, IF YOU KNOW?

01:32PM 13 A. YOUNGER BROTHER.

01:32PM 14 Q. DID THERE COME A TIME WHEN YOUR REPORTING OBLIGATIONS  
01:32PM 15 CHANGED?

01:32PM 16 A. YES.

01:32PM 17 Q. AND WHEN DID THAT HAPPEN AND HOW DID IT CHANGE?

01:32PM 18 A. THAT HAPPENED WHEN I RECEIVED MY PROMOTION AT THE END OF  
01:32PM 19 2014. SO THAT BEGAN IN JANUARY OF 2015.

01:32PM 20 AND AT THAT TIME I REPORTED DIRECTLY TO ELIZABETH HOLMES.

01:32PM 21 Q. AND HOW DID YOUR JOB RESPONSIBILITIES CHANGE WITH THAT  
01:32PM 22 PROMOTION? AND IF YOU CAN START BY GIVING US YOUR NEW TITLE  
01:32PM 23 FOLLOWING THE PROMOTION?

01:32PM 24 A. MY NEW TITLE FOLLOWING THE PROMOTION WAS LEAD OF STRATEGIC  
01:32PM 25 OPERATIONS, OFFICE OF THE CEO.

01:32PM 1 THE MAJORITY OF MY JOB RESPONSIBILITIES REMAINED, ALTHOUGH  
01:32PM 2 AT THAT POINT IN TIME THE WALGREENS PARTNERSHIP AND OPERATION  
01:32PM 3 HAD REALLY GOTTEN OFF THE GROUND, SO I SPENT LESS OF MY TIME  
01:33PM 4 WORKING ON THAT.

01:33PM 5 AND THERE WAS ALSO AN OPERATIONAL COMPONENT TO THE NEW  
01:33PM 6 ROLE WHERE I WORKED WITH OTHER MEMBERS OF THE OFFICE OF THE CEO  
01:33PM 7 TO MAKE SURE THAT ANY PROJECTS OR REQUESTS REQUIRED ELIZABETH'S  
01:33PM 8 FEEDBACK OR ATTENTION WERE RESPONDED TO IN A TIMELY FASHION.

01:33PM 9 Q. I'D LIKE TO ASK YOU ABOUT THAT ROLE AND HOW FREQUENTLY IT  
01:33PM 10 REQUIRED YOU TO INTERACT WITH MS. HOLMES AND MR. BALWANI, SO  
01:33PM 11 LET'S BREAK THOSE UP.

01:33PM 12 FIRST OF ALL, HOW FREQUENTLY WERE YOU IN CONTACT WITH  
01:33PM 13 MS. HOLMES IN THAT ROLE AT THE COMPANY?

01:33PM 14 A. THE SECOND ROLE?

01:33PM 15 Q. YES.

01:33PM 16 A. GENERALLY ON A DAILY BASIS.

01:33PM 17 Q. AND WERE YOU REPORTING DIRECTLY TO HER AT THAT TIME?

01:33PM 18 A. YES.

01:33PM 19 Q. AND HOW ABOUT MR. BALWANI? HOW FREQUENTLY WERE YOU IN  
01:33PM 20 CONTACT WITH HIM DURING THAT TIME PERIOD?

01:33PM 21 AND I GUESS WE'RE TALKING ABOUT FROM 2015 ON.

01:33PM 22 A. IT WAS NOT NEARLY AS FREQUENT.

01:34PM 23 Q. AND IF YOU COULD TRY TO QUANTIFY IT FOR US, WAS IT WEEKLY?  
01:34PM 24 MONTHLY? SOMETHING ELSE?

01:34PM 25 A. I THINK WEEKLY OR BIWEEKLY.

01:34PM 1 Q. HOW ABOUT FOR THE TIME PERIOD BEFORE YOUR PROMOTION? SO  
01:34PM 2 IF WE'RE TALKING ABOUT 2012 THROUGH 2014, HOW FREQUENTLY DID  
01:34PM 3 YOU HAVE CONTACT WITH MR. BALWANI DURING THAT TIME PERIOD?  
01:34PM 4 A. I HAD CONTACT WITH MR. BALWANI MORE FREQUENTLY IN THAT  
01:34PM 5 TIME PERIOD MAINLY AROUND THE WALGREENS PARTNERSHIP, WHEN THE  
01:34PM 6 WALGREENS OPERATION BECAUSE SUNNY KIND OF OVERSAW THAT  
01:34PM 7 RELATIONSHIP, AND AT THE TIME THAT'S WHERE I SPENT MOST OF MY  
01:34PM 8 TIME.  
01:34PM 9 Q. CAN YOU TELL US MORE ABOUT THAT? WHAT WAS YOUR ROLE IN  
01:34PM 10 CONNECTION WITH THE WALGREENS PARTNERSHIP, AND WHY DID THAT  
01:34PM 11 ENTAIL FREQUENT CONTACT WITH THE DEFENDANT, MR. BALWANI?  
01:34PM 12 A. IN MY ROLE I WORKED WITH THE OTHER SENIOR PRODUCT MANAGERS  
01:35PM 13 TO OPERATIONALIZE AND PLAN WHAT THE WALGREENS OPERATION WOULD  
01:35PM 14 LOOK LIKE, AND THAT INCLUDED MAINLY THE FRONT END CUSTOMER  
01:35PM 15 EXPERIENCE PROCESS FOR PATIENTS AS THEY ENTERED A THERANOS  
01:35PM 16 WELLNESS CENTER AND HAD THEIR SAMPLES COLLECTED IN THAT STORE.  
01:35PM 17 THERE WERE ALSO A NUMBER OF OTHER ASPECTS, INCLUDING  
01:35PM 18 SOFTWARE DEVELOPMENT AND APPLICATIONS THAT WERE USED BY  
01:35PM 19 PHARMACISTS AND TECHNICIANS IN THE WALGREENS STORES IN THE  
01:35PM 20 WELLNESS CENTERS TO CHECK PATIENTS IN, RUN THEIR INSURANCE,  
01:35PM 21 EVALUATE THEIR LAB FORMS.  
01:35PM 22 AND THEN THERE WAS ALSO ANOTHER SOFTWARE APPLICATION THAT  
01:35PM 23 HELPED THE TECHNICIANS UNDERSTAND WHAT TUBES THEY NEEDED TO  
01:35PM 24 COLLECT CERTAIN SAMPLES BASED ON THE PARTICULAR LAB ORDER.  
01:35PM 25 Q. DURING YOUR TIME AT THE COMPANY, DID YOU GET A SENSE FOR

01:36PM 1 HOW INFORMATION MOVED AROUND THE COMPANY? AND IN PARTICULAR

01:36PM 2 I'M ASKING ABOUT WHETHER THE FLOW OF INFORMATION WAS RESTRICTED

01:36PM 3 WITHIN THERANOS?

01:36PM 4 A. YES.

01:36PM 5 Q. WHAT WAS YOUR SENSE THERE?

01:36PM 6 A. THE FLOW OF INFORMATION WAS GENERALLY RESTRICTED, AND WHAT

01:36PM 7 I MEAN BY THAT IS CERTAIN INFORMATION WOULD NOT GET SHARED

01:36PM 8 OUTSIDE OF THE PARTICULAR TEAM TO WHICH THAT INFORMATION

01:36PM 9 APPLIED.

01:36PM 10 Q. AND HOW DID YOU COME TO UNDERSTAND THAT THAT WAS THE WAY

01:36PM 11 OF THINGS AT THERANOS?

01:36PM 12 A. THAT'S WHAT I WAS TOLD BY MY SUPERVISORS.

01:36PM 13 Q. AND WHO ARE WE TALKING ABOUT, THE PEOPLE WHO TOLD YOU THAT

01:36PM 14 INFORMATION WAS TO BE RESTRICTED THAT WAY?

01:36PM 15 A. THAT INCLUDED CHRISTIAN, ELIZABETH, AND SUNNY.

01:36PM 16 Q. YOU HEARD DIRECTION LIKE THAT FROM ALL THREE OF THOSE

01:36PM 17 INDIVIDUALS?

01:36PM 18 A. CORRECT.

01:36PM 19 Q. SO FAR WE'VE BEEN TALKING ABOUT THE WAY THE INFORMATION

01:37PM 20 MOVED BETWEEN DIFFERENT EMPLOYEES WITHIN THE COMPANY; CORRECT?

01:37PM 21 A. RIGHT.

01:37PM 22 Q. AND HOW ABOUT THE FLOW OF INFORMATION FROM INSIDE OF THE

01:37PM 23 COMPANY TO OUTSIDE? DID YOU GET DIRECTION ABOUT KEEPING

01:37PM 24 INFORMATION WITHIN THE COMPANY AND NOT PUBLICLY DISCLOSING IT?

01:37PM 25 A. YES, THAT INFORMATION WAS ALSO RESTRICTED FROM BEING SENT

01:37PM 1 OUTSIDE OF THE COMPANY.

01:37PM 2 MY UNDERSTANDING WAS THAT NO INFORMATION SHOULD BE SHARED

01:37PM 3 OUTSIDE OF THE COMPANY UNLESS IT WAS APPROVED, AND IN MY CASE

01:37PM 4 THAT WOULD HAVE BEEN APPROVED BY CHRISTIAN, ELIZABETH, OR

01:37PM 5 SUNNY.

01:37PM 6 Q. WHEN WE ARE TALKING ABOUT RESTRICTIONS ON FLOW OF

01:37PM 7 INFORMATION WITHIN THE COMPANY, WAS THERE ANYONE AT THE COMPANY

01:37PM 8 TO WHOM THOSE RESTRICTIONS DID NOT APPLY?

01:37PM 9 IN OTHER WORDS, WERE THERE PEOPLE AT THE COMPANY WHO WERE

01:37PM 10 ALLOWED TO KNOW ANYTHING, WHO DIDN'T HAVE RESTRICTIONS ON WHAT

01:37PM 11 THEY COULD KNOW?

01:37PM 12 A. YES.

01:37PM 13 Q. AND WHO FELL INTO THAT CATEGORY?

01:38PM 14 A. ELIZABETH AND SUNNY.

01:38PM 15 Q. SO BASED ON YOUR TIME AT THE COMPANY, WAS THERE ANY

01:38PM 16 INFORMATION THAT YOU UNDERSTOOD COULD NOT BE SHARED WITH EITHER

01:38PM 17 MS. HOLMES OR WITH MR. BALWANI?

01:38PM 18 A. THAT WAS NOT MY EXPERIENCE.

01:38PM 19 Q. AND BASED ON YOUR UNDERSTANDING, WAS THERE ANYONE ELSE

01:38PM 20 WITHIN THAT CATEGORY, THE CATEGORY OF PEOPLE WHO WERE ALLOWED

01:38PM 21 TO KNOW EVERYTHING THAT WAS HAPPENING AT THE COMPANY?

01:38PM 22 A. NO.

01:38PM 23 MR. BOSTIC: YOUR HONOR, I WASN'T SURE IF THE COURT

01:38PM 24 WANTED TO TAKE A BREAK AT 2:00 P.M. OR SOONER.

01:38PM 25 THE COURT: I THOUGHT WE WOULD TAKE A BREAK AT 2:00

01:38PM 1 P.M., LADIES AND GENTLEMEN.

01:38PM 2 MR. BOSTIC: UNDERSTOOD.

01:38PM 3 Q. MR. EDLIN, WHILE WORKING AT THE COMPANY, DID YOU HAVE

01:38PM 4 OPPORTUNITIES TO OBSERVE MS. HOLMES AND MR. BALWANI'S WORKING

01:38PM 5 RELATIONSHIP?

01:38PM 6 A. YES.

01:38PM 7 Q. LET ME ASK A FEW QUESTIONS ABOUT THAT.

01:38PM 8 FIRST OF ALL, WHEN IT CAME TO THEIR POSITIONS AT THE

01:39PM 9 COMPANY, WERE THEY COEQUALS? WAS ONE ABOVE THE OTHER IN THE

01:39PM 10 ORGANIZATIONAL CHART?

01:39PM 11 WHAT WAS YOUR UNDERSTANDING THERE?

01:39PM 12 A. ASIDE FROM THE TITLES, I DID NOT REALLY SEE A DISTINCTION.

01:39PM 13 Q. DO YOU MEAN TO SAY THAT THEY OPERATED AS EQUALS?

01:39PM 14 A. YES, I THINK THAT'S A FAIR CHARACTERIZATION.

01:39PM 15 Q. TELL ME ABOUT THAT. WHAT MAKES YOU SAY THAT?

01:39PM 16 A. IN MY EXPERIENCE, I SAW THE TWO OF THEM WORK VERY CLOSELY

01:39PM 17 TOGETHER ON A DAILY BASIS.

01:39PM 18 THEY WERE ALWAYS IN EACH OTHER'S OFFICES EITHER HAVING

01:39PM 19 LUNCH OR HAVING OTHER CONVERSATIONS.

01:39PM 20 FROM MY VANTAGE POINT, I RECEIVED DIRECTION AND UNDERSTOOD

01:39PM 21 THAT THEY BOTH HAD AN UNDERSTANDING OF THE OVERALL STRATEGY FOR

01:39PM 22 THE COMPANY.

01:39PM 23 Q. AND TELL ME ABOUT -- YOU MENTIONED YOUR VANTAGE POINT.

01:40PM 24 HOW DID YOU HAVE A CHANCE TO SEE THESE TWO WORKING

01:40PM 25 TOGETHER?

01:40PM 1 A. VISUALLY THEIR OFFICES HAD GLASS WINDOWS AND DOORS, SO I  
01:40PM 2 WOULD ALWAYS BE ABLE TO SEE INSIDE OF THEIR OFFICES, AS ANYONE  
01:40PM 3 ELSE WOULD.  
01:40PM 4 Q. AND DOES THAT HAVE SOMETHING TO DO WITH WHERE YOUR WORK  
01:40PM 5 STATION WAS IN RELATION TO THEIR OFFICES?  
01:40PM 6 A. YES.  
01:40PM 7 Q. AND WHERE WAS YOUR WORK STATION?  
01:40PM 8 A. I SAT IN A POD OF DESKS OUTSIDE OF THEIR OFFICES, OR CLOSE  
01:40PM 9 TO THEIR OFFICES.  
01:40PM 10 Q. AND BESIDES SITTING NEAR THEIR OFFICES AND BEING ABLE TO  
01:40PM 11 SEE THEM WORKING, DID YOUR WORK ALSO INVOLVE CONTACT WITH THE  
01:40PM 12 TWO OF THEM?  
01:40PM 13 A. YES.  
01:40PM 14 Q. WHEN IT CAME TO THE RESPONSIBILITIES OF MS. HOLMES AND  
01:40PM 15 MR. BALWANI, DID YOU OBSERVE THEM COLLABORATING REGULARLY AT  
01:41PM 16 THE COMPANY OR DID THEY TEND TO WORK SEPARATELY? WHAT DID YOU  
01:41PM 17 SEE IN THAT REGARD?  
01:41PM 18 A. I THINK THERE WAS A MIX. THERE WERE CERTAIN AREAS THAT  
01:41PM 19 EACH OF THEM FOCUSED ON, AND THERE WERE OTHER AREAS WHERE IT  
01:41PM 20 SEEMED MORE COLLABORATIVE.  
01:41PM 21 Q. DID YOU EVER HAVE A CHANCE TO SEE AN INSTANCE WHERE THE  
01:41PM 22 TWO OF THEM DISAGREED ABOUT SOMETHING THAT HAPPENED AT  
01:41PM 23 THERANOS?  
01:41PM 24 A. THERE WERE A NUMBER OF TIMES WHERE THERE WOULD BE A LIVELY  
01:41PM 25 DISCUSSION ABOUT A CERTAIN STRATEGY OR A CERTAIN APPROACH, AND

01:41PM 1 I THINK AS PART OF A HEALTHY DISCUSSION THERE WAS SOME  
01:41PM 2 DISAGREEMENT AT TIMES, YES.  
01:41PM 3 Q. AND DESPITE SEEING THAT AGREEMENT, IS IT STILL YOUR  
01:41PM 4 TESTIMONY THAT THEY TENDED TO COLLABORATE AND AGREE ON THINGS?  
01:41PM 5 A. YES.  
01:41PM 6 Q. YOU TALKED ABOUT A ROLE THAT YOU HAD IN CONNECTION WITH  
01:41PM 7 THE OPERATIONALIZATION OF THE TESTING AT WALGREENS; IS THAT  
01:42PM 8 CORRECT?  
01:42PM 9 A. YES.  
01:42PM 10 Q. IN CONNECTION WITH THAT ROLE, DID YOU COME TO UNDERSTAND  
01:42PM 11 GENERALLY WHAT KINDS OF DEVICES THE COMPANY WAS USING FOR BLOOD  
01:42PM 12 TESTING?  
01:42PM 13 A. YES.  
01:42PM 14 Q. WHEN AND HOW DID YOU COME TO UNDERSTAND WHAT ANALYZERS THE  
01:42PM 15 COMPANY WAS USING?  
01:42PM 16 A. I CAME TO UNDERSTAND THIS OVER A PERIOD OF TIME FROM WHEN  
01:42PM 17 I JOINED THE COMPANY UP UNTIL THE LAST YEAR THAT I LEFT, AND  
01:42PM 18 OVER THAT TIME I LEARNED MORE.  
01:42PM 19 INITIALLY I WAS EXPOSED TO THE EDISON 3.0 VERSION OF THE  
01:42PM 20 DEVICE MAINLY IN MY WORK SUPPORTING SOME OF THE PHARMACEUTICAL  
01:42PM 21 AND MILITARY RELATIONSHIPS THAT THE COMPANY HAD.  
01:42PM 22 AND THEN OVER TIME ADDITIONAL DEVICES WERE INCORPORATED  
01:43PM 23 INTO THE TECHNOLOGY DEMONSTRATIONS, AND THAT'S HOW I LEARNED  
01:43PM 24 ABOUT THOSE DEVICES.  
01:43PM 25 Q. OKAY. I'D LIKE TO BREAK THAT OUT A LITTLE BIT.

01:43PM 1 YOU MENTIONED THE EDISON 3.0 DEVICE; IS THAT RIGHT?

01:43PM 2 A. YES.

01:43PM 3 Q. DID YOU HAVE AN UNDERSTANDING IN 2013 AND 2014 AS TO

01:43PM 4 GENERALLY WHAT THAT DEVICE COULD DO AND WHAT IT COULDN'T DO?

01:43PM 5 A. I DON'T THINK SO.

01:43PM 6 Q. SO, FOR EXAMPLE, DID YOU KNOW HOW MANY DIFFERENT KINDS OF

01:43PM 7 TESTS THE EDISON 3.0 COULD RUN?

01:43PM 8 A. NO.

01:43PM 9 Q. DID YOU KNOW WHETHER THERE WAS A SPECIFIC CATEGORY OF

01:43PM 10 TESTS THAT THE EDISON WAS LIMITED TO?

01:43PM 11 A. I DON'T BELIEVE SO.

01:43PM 12 Q. AND IS THAT BECAUSE YOUR JOB OR YOUR ROLE DIDN'T REQUIRE

01:43PM 13 YOU TO KNOW THAT INFORMATION?

01:43PM 14 A. CORRECT.

01:43PM 15 Q. AND YOU TESTIFIED THAT YOUR UNDERSTANDING OF WHAT DEVICES

01:43PM 16 THERANOS WAS USING CHANGED OVER TIME UP UNTIL THE END OF YOUR

01:44PM 17 TIME WITH THE COMPANY; IS THAT RIGHT?

01:44PM 18 A. YES.

01:44PM 19 Q. WHAT WERE SOME OF THE THINGS THAT YOU LEARNED ABOUT THE

01:44PM 20 COMPANY'S DEVICES TOWARDS THE END OF YOUR TIME WORKING AT

01:44PM 21 THERANOS?

01:44PM 22 MS. WALSH: OBJECTION. RELEVANCE.

01:44PM 23 THE COURT: OVERRULED.

01:44PM 24 BY MR. BOSTIC:

01:44PM 25 Q. WOULD YOU LIKE THE QUESTION AGAIN, MR. EDLIN?

01:44PM 1 A. YES, PLEASE.

01:44PM 2 Q. THE QUESTION WAS, WHAT WERE SOME OF THE THINGS THAT YOU

01:44PM 3 LEARNED ABOUT THE DEVICES THAT THE COMPANY WAS USING TOWARDS

01:44PM 4 THE END OF YOUR TIME THERE?

01:44PM 5 A. WELL, IN 2016 I LEARNED THAT THE COMPANY HAD BEEN USING

01:44PM 6 THIRD PARTY DEVICES TO RUN FINGERSTICK SAMPLES, AND I ALSO

01:44PM 7 LEARNED IN THAT TIME THAT ONLY ONE VERSION OF THE THERANOS

01:44PM 8 DEVICE HAD BEEN USED FOR CLINICAL PATIENT SAMPLES.

01:44PM 9 Q. AND YOU HAVE A MEMORY OF LEARNING THAT IN 2016?

01:44PM 10 A. WELL, I FIRST HEARD ABOUT IT AT THE END OF 2015 IN "THE

01:44PM 11 WALL STREET JOURNAL" ARTICLE, AND I ATTENDED MEETINGS WHERE

01:45PM 12 THAT MATERIAL WAS DISCUSSED IN 2016, AND THAT'S WHEN I WOULD

01:45PM 13 SAY I LEARNED IT.

01:45PM 14 Q. SO IN 2013, AROUND THE TIME OF THE WALGREENS ROLLOUT, EVEN

01:45PM 15 IN YOUR ROLE IN CONNECTION WITH THAT ROLLOUT AND IN YOUR ROLE

01:45PM 16 AS A PRODUCT MANAGER, YOU WEREN'T AWARE OF THE COMPANY'S USE OF

01:45PM 17 THIRD PARTY DEVICES FOR TESTING?

01:45PM 18 MS. WALSH: OBJECTION. ASKED AND ANSWERED.

01:45PM 19 THE COURT: OVERRULED.

01:45PM 20 DO YOU UNDERSTAND THE QUESTION?

01:45PM 21 THE WITNESS: CAN YOU REPEAT THE QUESTION, PLEASE?

01:45PM 22 MR. BOSTIC: SURE.

01:45PM 23 Q. THE QUESTION WAS, EVEN IN THE ROLE THAT YOU HAD IN

01:45PM 24 CONNECTION WITH THE WALGREENS ROLLOUT AND YOUR ROLE AS A

01:45PM 25 PRODUCT MANAGER, YOU DIDN'T KNOW IN 2013 AND 2014 THAT THERANOS

01:45PM 1 WAS RELYING ON THIRD PARTY DEVICES?

01:45PM 2 A. CORRECT.

01:45PM 3 Q. YOU MENTIONED THE EDISON 3 SERIES.

01:45PM 4 DID YOU LATER COME TO BE FAMILIAR WITH ANOTHER GENERATION

01:45PM 5 OF THERANOS ANALYZERS?

01:45PM 6 A. YES.

01:45PM 7 Q. AND CAN YOU TELL US ABOUT WHAT THOSE WERE AND HOW YOU

01:46PM 8 FOUND OUT ABOUT THEM?

01:46PM 9 A. SO THE EDISON DEVICES WERE CONSIDERED THE 3 SERIES; THE

01:46PM 10 NEXT GENERATION DEVICES WERE CONSIDERED THE 4 SERIES; AND THERE

01:46PM 11 WERE THREE VARIATIONS OF THESE DEVICES, AND MY UNDERSTANDING

01:46PM 12 WAS THAT THESE DEVICES HAD THE CAPABILITY TO RUN ANY LAB TEST.

01:46PM 13 Q. AND HOW DID YOU COME TO KNOW ABOUT THESE DEVICES?

01:46PM 14 A. I FIRST LEARNED ABOUT THESE DEVICES AS PART OF THE

01:46PM 15 PLANNING WORK WITH THE DEPARTMENT OF DEFENSE.

01:46PM 16 Q. AND THE DEVICES WE'RE TALKING ABOUT, I THINK YOU MENTIONED

01:46PM 17 THERE WERE THREE DIFFERENT VERSIONS OF THAT GENERATION.

01:46PM 18 CAN YOU WALK US THROUGH WHAT THOSE WERE?

01:46PM 19 A. YES. SO THE FIRST VERSION WAS INITIALLY CALLED THE

01:46PM 20 MINILAB, AND THAT DEVICE WAS ABOUT FOUR OR FIVE FEET TALL AND

01:47PM 21 IT CONSISTED OF THE COMPONENTS OF FOUR OR FIVE DIFFERENT

01:47PM 22 DEVICES STACKED ON TOP OF ONE ANOTHER.

01:47PM 23 AND THE OTHER VERSIONS WERE -- ONE WAS REFERRED TO AS A

01:47PM 24 4.0 MONOBAY, AND THAT WAS INTENDED FOR ONE SAMPLE AT A TIME.

01:47PM 25 AND THEN THE 4S WAS A SMALLER VERSION OF THE MONOBAY.

01:47PM 1 Q. THE DEVICES THAT WE'RE TALKING ABOUT NOW, WERE THEY EVER  
01:47PM 2 USED FOR CLINICAL PATIENT TESTING AT THERANOS TO YOUR  
01:47PM 3 KNOWLEDGE?  
01:47PM 4 A. NO.  
01:47PM 5 Q. IN CONTRAST, THE EDISON THAT WE TALKED ABOUT BEFORE, THE  
01:47PM 6 EDISON 3.0, WAS THAT USED FOR ACTUAL CLINICAL PATIENT TESTING?  
01:47PM 7 A. YES.  
01:47PM 8 Q. AND I WANT TO BE CLEAR, WHEN WE'RE TALKING ABOUT THE --  
01:47PM 9 THESE NEXT GENERATION DEVICES, THE 4 SERIES THAT YOU MENTIONED,  
01:47PM 10 WERE THEY USED FOR CLINICAL PATIENT TESTING AT ANY POINT IN  
01:48PM 11 YOUR TIME AT THE COMPANY, INCLUDING AS LATE AS 2015 AND 2016?  
01:48PM 12 A. NO.  
01:48PM 13 Q. WE TALKED A MINUTE AGO ABOUT RESTRICTIONS ON FLOW OF  
01:48PM 14 INFORMATION WITHIN THE COMPANY, WITHIN THERANOS.  
01:48PM 15 LET ME ASK YOU ABOUT THAT SPECIFICALLY IN TERMS OF THE USE  
01:48PM 16 OF THIRD PARTY DEVICES.  
01:48PM 17 TO YOUR KNOWLEDGE, WAS THE COMPANY'S USE OF THIRD PARTY  
01:48PM 18 DEVICES PUBLIC IN 2013 AND 2014?  
01:48PM 19 A. I DON'T BELIEVE SO.  
01:48PM 20 Q. AND WE TALKED ABOUT CATEGORIES OF INFORMATION THAT WERE  
01:48PM 21 RESTRICTED AT THERANOS. DID YOU UNDERSTAND THAT THE USE OF  
01:48PM 22 THIRD PARTY DEVICES FELL INTO THAT CATEGORY, A CATEGORY OF  
01:49PM 23 INFORMATION THAT SHOULD NOT BE SHARED WITHIN OR OUTSIDE OF THE  
01:49PM 24 COMPANY?  
01:49PM 25 MS. WALSH: OBJECTION. LEADING.

01:49PM 1 THE COURT: SUSTAINED.

01:49PM 2 YOU CAN REPHRASE IT.

01:49PM 3 BY MR. BOSTIC:

01:49PM 4 Q. LET ME ASK, DID YOU HAVE AN UNDERSTANDING AS TO WHETHER

01:49PM 5 THE USE OF THIRD PARTY DEVICES WAS A CONFIDENTIAL FACT AT

01:49PM 6 THERANOS OR WHETHER IT COULD BE SHARED FREELY OUTSIDE OF THE

01:49PM 7 COMPANY?

01:49PM 8 A. I DON'T BELIEVE IT COULD HAVE BEEN SHARED FREELY.

01:49PM 9 Q. WHEN YOU FOUND OUT ABOUT THE COMPANY'S USE OF THIRD PARTY

01:49PM 10 DEVICES, DID YOU BECOME AWARE OF THE COMPANY'S USE OF BOTH

01:49PM 11 MODIFIED THIRD PARTY DEVICES AND ALSO UNMODIFIED THIRD PARTY

01:49PM 12 DEVICES?

01:49PM 13 A. I'M SORRY, CAN YOU REPEAT THE BEGINNING OF THAT QUESTION?

01:49PM 14 Q. SURE. WHEN YOU DID FIND OUT ABOUT THE COMPANY'S USE OF

01:49PM 15 THIRD PARTY DEVICES, DID YOU FIND OUT ABOUT THE USE OF MODIFIED

01:49PM 16 AND UNMODIFIED DEVICES?

01:49PM 17 A. YES.

01:49PM 18 Q. AND WHEN WE'RE TALKING ABOUT THE CONFIDENTIALITY REGARDING

01:50PM 19 THAT TOPIC AS YOU UNDERSTOOD IT, WAS THERE A DIFFERENCE THERE?

01:50PM 20 OR DID THOSE CONFIDENTIALITY OBLIGATIONS APPLY BOTH TO THE

01:50PM 21 MODIFIED DEVICES AND ALSO THE UNMODIFIED DEVICES?

01:50PM 22 A. THERE WAS A POINT IN TIME AROUND JULY 2017 WHERE I BELIEVE

01:50PM 23 THAT ALL ASPECTS OF THE THERANOS TECHNOLOGY BECAME PUBLIC

01:50PM 24 INFORMATION, THIS WAS SHARED AT A CONFERENCE.

01:50PM 25 SO UP UNTIL THAT POINT, I DON'T BELIEVE THAT THAT WAS

01:50PM 1 PUBLIC INFORMATION, BUT I THINK AFTERWARD IT WAS.

01:50PM 2 Q. AND CAN YOU HELP US NAIL THAT DOWN IN TIME? DID YOU

01:50PM 3 MENTION A MONTH OR A YEAR?

01:50PM 4 A. I BELIEVE IT WAS JULY OF 2016.

01:50PM 5 Q. SO BEFORE THAT YOUR UNDERSTANDING WOULD HAVE BEEN THAT ALL

01:50PM 6 OF THESE FACTS WOULD HAVE BEEN RESTRICTED AND SHOULD HAVE BEEN

01:50PM 7 KEPT WITHIN THERANOS?

01:50PM 8 A. RIGHT.

01:50PM 9 Q. AS PART OF YOUR JOB AT THE COMPANY, DID YOU HANDLE TOURS

01:51PM 10 OF THE THERANOS FACILITIES?

01:51PM 11 A. SOMETIMES.

01:51PM 12 Q. WHO ELSE DID THAT WORK? WHO ELSE WAS INVOLVED IN

01:51PM 13 PROVIDING TOURS OF THE FACILITIES FOR VIP VISITORS, FOR

01:51PM 14 EXAMPLE?

01:51PM 15 A. IN MY EXPERIENCE IT WAS MAINLY ELIZABETH.

01:51PM 16 Q. WAS MR. BALWANI ALSO INVOLVED IN SOME OF THOSE TOURS?

01:51PM 17 A. SOME OF THEM, YES.

01:51PM 18 Q. AND WHEN IT CAME TO TOURS, WHICH PORTIONS OF THE

01:51PM 19 FACILITIES DID YOU GIVE TOURS TO VIP'S TO?

01:51PM 20 A. THE GENERAL WORKING SPACE FOR DIFFERENT EMPLOYEES AND THE

01:51PM 21 R&D LABS.

01:51PM 22 Q. WAS THE R&D LAB WHERE, FOR EXAMPLE, THE NEXT GENERATION

01:51PM 23 DEVICES THAT WE TALKED ABOUT WERE BEING WORKED ON?

01:51PM 24 MS. WALSH: OBJECTION. LEADING.

01:51PM 25 THE COURT: OVERRULED.

01:51PM 1 THE WITNESS: I DO RECALL SEEING THOSE DEVICES IN  
01:52PM 2 THE R&D LAB.  
01:52PM 3 BY MR. BOSTIC:  
01:52PM 4 Q. HOW ABOUT THE CLINICAL LAB WHERE THE PREVIOUS GENERATION  
01:52PM 5 DEVICES WERE BEING USED FOR PATIENT TESTING? DID YOU EVER GIVE  
01:52PM 6 A TOUR OF THE CLINICAL LAB DURING YOUR TIME AT THE COMPANY?  
01:52PM 7 A. NO.  
01:52PM 8 Q. AND WHOSE DECISION WAS IT WHO GOT TO SEE WHAT AT THE  
01:52PM 9 COMPANY? WHO CONTROLLED WHERE THOSE TOURS WENT AND WHAT WAS  
01:52PM 10 COVERED?  
01:52PM 11 A. ELIZABETH AND SUNNY.  
01:52PM 12 Q. DO YOU REMEMBER AN OCCASION DURING YOUR TIME AT THE  
01:52PM 13 COMPANY WHERE REPRESENTATIVES FROM WALGREENS CAME TO TOUR THE  
01:52PM 14 THERANOS FACILITIES?  
01:52PM 15 A. YES.  
01:52PM 16 Q. AND IN ADVANCE OF THAT VISIT, WERE YOU ASKED TO PREPARE  
01:52PM 17 ANY AREAS FOR THEM TO SEE?  
01:52PM 18 A. YES.  
01:52PM 19 Q. WHAT DO YOU REMEMBER ABOUT THAT?  
01:52PM 20 A. I REMEMBER THAT THERE WAS A ROOM ADJACENT TO THE CLINICAL  
01:52PM 21 LAB AND ELIZABETH ASKED THAT I WORK WITH DANIEL YOUNG, WHO WAS  
01:53PM 22 A HEAD SCIENTIST AT THERANOS, TO SET UP SEVERAL MINILAB DEVICES  
01:53PM 23 IN THAT ROOM.  
01:53PM 24 Q. CAN YOU HELP US PLACE THIS IN TIME, FIRST OF ALL?  
01:53PM 25 DO YOU REMEMBER WHAT YEAR APPROXIMATELY THIS WOULD HAVE

01:53PM 1 BEEN?

01:53PM 2 A. 2013.

01:53PM 3 Q. AND DURING THIS TIME PERIOD, WERE THOSE DEVICES BEING USED

01:53PM 4 AT ALL FOR PATIENT TESTING?

01:53PM 5 A. NO.

01:53PM 6 Q. BECAUSE WE'RE TALKING ABOUT THE MINILAB, THE NEXT

01:53PM 7 GENERATION DEVICE; IS THAT RIGHT?

01:53PM 8 A. CORRECT.

01:53PM 9 Q. WERE THERE ANY OTHER INSTRUCTIONS THAT YOU RECEIVED IN

01:53PM 10 CONNECTION WITH THOSE DEVICES, FOR EXAMPLE, WHETHER THEY WERE

01:53PM 11 GOING TO BE FUNCTIONAL OR NOT?

01:53PM 12 A. THE DIRECTION THAT I WAS GIVEN WAS TO MAKE SURE THAT THE

01:53PM 13 DEVICES WERE POWERED ON, THAT THEY HAD THE GRAPHIC USER

01:53PM 14 INTERFACE SHOWING ON THE SCREEN, AND THAT ONE OF THE DEVICES

01:53PM 15 SHOULD BE ABLE TO ACCEPT A CARTRIDGE.

01:54PM 16 Q. AND I'M SORRY IF YOU SAID ALREADY, BUT APPROXIMATELY HOW

01:54PM 17 MANY OF THESE MINILAB DEVICES ARE WE TALKING ABOUT BEING PUT IN

01:54PM 18 THAT ROOM?

01:54PM 19 A. I THINK IT WAS BETWEEN 10 TO 15.

01:54PM 20 Q. AND DID YOU, IN FACT, FOLLOW THOSE INSTRUCTIONS AND SET UP

01:54PM 21 THOSE DEVICES IN THAT ROOM IN ADVANCE OF THE TOUR?

01:54PM 22 A. I DON'T THINK I PERSONALLY SET THEM UP, BUT I WORKED WITH

01:54PM 23 ENGINEERS. I ASKED ENGINEERS TO SET THEM UP.

01:54PM 24 Q. YOUR JOB WAS TO MAKE SURE THAT IT WAS DONE?

01:54PM 25 A. RIGHT.

01:54PM 1 Q. AND WERE YOU A PART OF THAT TOUR WHEN THE WALGREENS VIP'S  
01:54PM 2 CAME TO VISIT WHEN THAT ROOM WAS SET UP?  
01:54PM 3 A. NO.  
01:54PM 4 Q. SO DO YOU HAVE ANY KNOWLEDGE ABOUT WHAT MIGHT HAVE BEEN  
01:54PM 5 SAID ABOUT THE DEVICES THAT WERE IN THAT ROOM?  
01:55PM 6 A. NO.  
01:55PM 7 Q. WAS MS. HOLMES INVOLVED IN THAT TOUR?  
01:55PM 8 A. YES.  
01:55PM 9 Q. WAS MR. BALWANI INVOLVED IN THAT TOUR?  
01:55PM 10 A. YES.  
01:55PM 11 Q. AFTER THE TOUR TOOK PLACE, DID THAT ROOM WITH ALL OF THOSE  
01:55PM 12 DEVICES, THE NEXT GENERATION DEVICES, REMAIN SET UP THE WAY IT  
01:55PM 13 WAS?  
01:55PM 14 A. NO. THE DEVICES WERE REMOVED ABOUT A DAY OR TWO  
01:55PM 15 AFTERWARD.  
01:55PM 16 Q. AND HOW DID THAT COME TO TAKE PLACE?  
01:55PM 17 A. ELIZABETH ASKED -- WELL, I ASKED ELIZABETH IF THOSE  
01:55PM 18 DEVICES SHOULD REMAIN THERE, AND SHE SAID NO, PLEASE REMOVE  
01:55PM 19 THEM.  
01:55PM 20 AND SO I ASKED THE ENGINEERS TO DO THAT.  
01:55PM 21 Q. SEPARATE FROM YOUR WORK ON THE TOURS, DID YOU HAVE ANY  
01:55PM 22 INVOLVEMENT IN TECHNOLOGY DEMONSTRATIONS FOR VIP VISITORS?  
01:55PM 23 A. YES, I HELPED TO COORDINATE THOSE TECHNOLOGY  
01:55PM 24 DEMONSTRATIONS.  
01:55PM 25 Q. CAN YOU SUMMARIZE WHAT YOUR ROLE WAS IN CONNECTION WITH

01:56PM 1 THOSE DEMOS?

01:56PM 2 A. MY ROLE WAS MAINLY TO COORDINATE WITH A NUMBER OF

01:56PM 3 DIFFERENT PERSONNEL WITHIN THE COMPANY FOR THE DEMOS.

01:56PM 4 SO THERE WERE SOME HARDWARE ENGINEERS WHO WERE RESPONSIBLE

01:56PM 5 FOR ACTUALLY SETTING UP A DEVICE;

01:56PM 6 THERE WERE SOFTWARE ENGINEERS WHO ARE RESPONSIBLE FOR

01:56PM 7 MAKING SURE THAT CERTAIN APPLICATIONS WERE ON THE DEVICE;

01:56PM 8 AND THEN THERE WERE ALSO LAB PERSONNEL WHO WERE NOTIFIED

01:56PM 9 IN ORDER TO PROCESS AND VALIDATE THE SAMPLES AND TESTS.

01:56PM 10 Q. CAN YOU WALK US THROUGH THE WORKFLOW FOR A TYPICAL

01:56PM 11 DEMONSTRATION STARTING WITH WHERE THE DEVICE WOULD BE FOR THE

01:56PM 12 DEMONSTRATION AND HOW IT WOULD GET THERE?

01:56PM 13 A. SO FIRST I WOULD GET A NOTIFICATION FROM EITHER ELIZABETH

01:57PM 14 OR SUNNY THAT A CERTAIN GUEST, ALSO KNOWN AS VIP AT TIMES,

01:57PM 15 WOULD BE COMING TO THE OFFICES AND THAT A DEMO WAS NEEDED.

01:57PM 16 SO THERE WERE INTERVIEW OR CONFERENCE ROOMS THAT WERE SET

01:57PM 17 UP FOR THIS PARTICULAR REASON, AND ONCE I RECEIVED THAT

01:57PM 18 INFORMATION, I WOULD THEN NOTIFY THE GROUP OF PEOPLE THAT I

01:57PM 19 JUST MENTIONED THAT A DEMO WAS HAPPENING AND THAT CERTAIN

01:57PM 20 DEVICES WOULD BE NEEDED TO BE SET UP.

01:57PM 21 AND I WOULD ALSO LET THE LAB KNOW SO THAT THEY WOULD BE

01:57PM 22 READY TO EITHER VALIDATE OR PROCESS A SAMPLE AT A MOMENT'S

01:57PM 23 NOTICE SO THAT RESULTS COULD GET SENT BACK TO THAT GUEST AS

01:57PM 24 SOON AS POSSIBLE.

01:57PM 25 Q. AND WHEN WE ARE TALKING ABOUT THE DEVICES THAT WERE IN THE

01:57PM 1 CONFERENCE ROOMS WHERE THE VIP'S WERE, WERE THEY ALWAYS THE  
01:57PM 2 DEVICES THAT THE COMPANY WAS USING FOR CLINICAL PATIENT  
01:58PM 3 TESTING, OR WERE THEY SOMETIMES THE NEXT GENERATION DEVICES  
01:58PM 4 THAT WEREN'T BEING USED FOR PATIENT TESTING?  
01:58PM 5 A. IN MY EXPERIENCE THEY WERE ONLY THE THERANOS DEVICES, THE  
01:58PM 6 THERANOS MANUFACTURED DEVICES.  
01:58PM 7 Q. AND BETWEEN THE DIFFERENT KINDS OF THERANOS MANUFACTURED  
01:58PM 8 DEVICES, WERE THEY LIMITED TO, SAY, THE 3 SERIES THAT WAS  
01:58PM 9 ACTUALLY BEING USED IN THE CLINICAL LAB, OR DID YOU SOMETIMES  
01:58PM 10 PLACE IN THOSE CONFERENCE ROOMS THE NEXT GENERATION THERANOS  
01:58PM 11 DEVICES THAT WEREN'T BEING USED FOR PATIENT TESTING?  
01:58PM 12 A. IN MY COORDINATION, OFTENTIMES OTHER PEOPLE WOULD OFTEN  
01:58PM 13 PLACE THOSE DEVICES, BUT WHEN I FIRST JOINED THE COMPANY, ONLY  
01:58PM 14 THE EDISON 3.0 VERSION WAS PLACED IN THOSE ROOMS; AND THEN OVER  
01:58PM 15 TIME THE NEXT GENERATION OF DEVICES WERE ALSO PLACED IN THOSE  
01:58PM 16 ROOMS.  
01:58PM 17 Q. WERE THERE INSTANCES WHERE A NEXT GENERATION DEVICE WAS  
01:59PM 18 PLACED IN A ROOM, BUT OTHER DEVICES WERE NECESSARY TO RUN THE  
01:59PM 19 SAMPLE, IF YOU RECALL?  
01:59PM 20 A. I DON'T RECALL KNOWING AT THAT TIME WHICH DEVICES WERE  
01:59PM 21 USED TO TEST THE SAMPLES.  
01:59PM 22 Q. OKAY. AND WE'LL LOOK AT SOME EMAILS IN A FEW MINUTES THAT  
01:59PM 23 MIGHT REFRESH YOUR RECOLLECTION.  
01:59PM 24 FOR NOW LET ME ASK, WERE YOU EVER ASKED TO PLACE A  
01:59PM 25 NON-THERANOS ANALYZER IN ONE OF THESE CONFERENCE ROOMS FOR A

01:59PM 1 VIP VISIT?

01:59PM 2 A. NO.

01:59PM 3 Q. DID YOU EVER, FOR EXAMPLE, PUT ONE OF THE BIG

01:59PM 4 SIEMENS ADVIA'S IN A CONFERENCE ROOM FOR A DEMO?

01:59PM 5 A. NO.

01:59PM 6 Q. HOW ABOUT AN IMMULITE DEVICE? DID YOU EVER PLACE AN

01:59PM 7 IMMULITE?

01:59PM 8 A. NO.

01:59PM 9 Q. HOW ABOUT A TECAN MACHINE? WERE YOU EVER ASKED TO PLACE A

01:59PM 10 TECAN MACHINE IN A CONFERENCE ROOM FOR ONE OF THESE DEMOS?

01:59PM 11 A. NO.

01:59PM 12 MR. BOSTIC: YOUR HONOR, THIS MIGHT BE A GOOD TIME

01:59PM 13 FOR A BREAK.

01:59PM 14 THE COURT: LET'S TAKE OUR BREAK, LADIES AND

01:59PM 15 GENTLEMEN. WE'LL TAKE 30 MINUTES, LADIES AND GENTLEMEN,

02:00PM 16 30 MINUTES.

02:00PM 17 (RECESS FROM 2:00 P.M. UNTIL 2:34 P.M.)

02:34PM 18 THE COURT: THANK YOU. WE'RE BACK ON THE RECORD.

02:34PM 19 ALL COUNSEL ARE PRESENT. MR. BALWANI IS PRESENT.

02:34PM 20 THE JURY AND ALTERNATES ARE PRESENT.

02:34PM 21 MR. BOSTIC, WOULD YOU LIKE TO CONTINUE?

02:34PM 22 MR. BOSTIC: YES, YOUR HONOR. THANK YOU.

02:34PM 23 Q. WELCOME BACK, MR. EDLIN.

02:34PM 24 A. THANK YOU.

02:34PM 25 Q. WE WERE TALKING ABOUT HOW TECHNOLOGY DEMONSTRATIONS WORKED

02:34PM 1 AT THERANOS.

02:34PM 2 DO YOU HAVE THAT SUBJECT IN MIND?

02:34PM 3 A. YES.

02:34PM 4 MR. BOSTIC: MAY I APPROACH, YOUR HONOR?

02:34PM 5 THE COURT: YES.

02:34PM 6 MR. BOSTIC: (HANDING.)

02:34PM 7 I'VE JUST HANDED THE WITNESS A BINDER. I BELIEVE THE

02:34PM 8 COURT ALREADY HAS A COPY AND SO DOES THE DEFENSE.

02:34PM 9 MS. WALSH: YES, YOUR HONOR.

02:34PM 10 BY MR. BOSTIC:

02:34PM 11 Q. MR. EDLIN, COULD I ASK YOU TO TURN TO TAB 959 IN THE

02:34PM 12 BINDER IN FRONT OF YOU.

02:35PM 13 A. OKAY.

02:35PM 14 Q. AND LET ME ASK, IN CONNECTION WITH THESE TECHNOLOGY

02:35PM 15 DEMONSTRATIONS AT THERANOS, YOU MENTIONED THAT YOU HAD A ROLE

02:35PM 16 IN COORDINATING THEM; IS THAT RIGHT?

02:35PM 17 A. CORRECT.

02:35PM 18 Q. DID YOU REGULARLY USE EMAIL IN ORDER TO COORDINATE WITH

02:35PM 19 THE VARIOUS PEOPLE WHO WERE INVOLVED IN THESE DEMONSTRATIONS?

02:35PM 20 A. YES, AND SOMETIMES THERE WAS VERBAL COMMUNICATION AS WELL.

02:35PM 21 Q. OKAY. AND WHEN IT CAME TO THE EMAILS, WERE THOSE EMAILS

02:35PM 22 IN THOSE CASES THE MECHANISM BY WHICH THE DETAILS AND LOGISTICS

02:35PM 23 AND THE RESULTS OF THOSE DEMONSTRATIONS WERE COORDINATED AND

02:35PM 24 EXCHANGED WITHIN THERANOS?

02:35PM 25 A. YES.

02:35PM 1 Q. AND IN ORDER FOR THAT PART OF THE COMPANY'S BUSINESS TO  
02:35PM 2 OPERATE, WAS IT IMPORTANT THAT THOSE EMAILS BE ACCURATE?  
02:35PM 3 A. YES.  
02:35PM 4 Q. AND AT THERANOS, WERE EMAILS LIKE THOSE PRESERVED SO THAT  
02:36PM 5 THEY COULD BE REFERRED BACK TO LATER, IF NECESSARY?  
02:36PM 6 A. TO MY KNOWLEDGE, YES.  
02:36PM 7 Q. LOOKING AT TAB 959, DO YOU SEE AN EMAIL CHAIN INCLUDING  
02:36PM 8 YOU AND OTHERS AT THERANOS RELATING TO COORDINATING ONE OF  
02:36PM 9 THESE DEMOS?  
02:36PM 10 A. YES.  
02:36PM 11 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 959.  
02:36PM 12 MS. WALSH: NO OBJECTION, YOUR HONOR.  
02:36PM 13 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.  
02:36PM 14 (GOVERNMENT'S EXHIBIT 959 WAS RECEIVED IN EVIDENCE.)  
02:36PM 15 BY MR. BOSTIC:  
02:36PM 16 Q. AND BEGINNING AT PAGE 2 OF THIS DOCUMENT, IF WE CAN ZOOM  
02:36PM 17 IN ON THE TEXT OF YOUR EMAIL, MR. EDLIN, WE SEE AN EMAIL FROM  
02:36PM 18 YOU DATED AUGUST 8TH, 2013; IS THAT CORRECT?  
02:36PM 19 A. CORRECT.  
02:36PM 20 Q. AND THE SUBJECT LINE IS DEMO ON AUGUST 13TH -- 4S AND  
02:36PM 21 MINILAB.  
02:36PM 22 DO YOU SEE THAT?  
02:36PM 23 A. YES.  
02:36PM 24 Q. TAKE A MOMENT TO REVIEW THIS IF YOU WOULD LIKE, BUT MY  
02:36PM 25 QUESTION FOR YOU IS, WHAT WAS THE PURPOSE OF THIS EMAIL AND

02:36PM 1 WHAT WAS HAPPENING HERE?

02:37PM 2 A. THE PURPOSE OF THIS EMAIL WAS TO NOTIFY DIFFERENT

02:37PM 3 PERSONNEL WHO EACH HAD DIFFERENT SPECIALTIES ABOUT A DEMO THAT

02:37PM 4 WAS GOING TO HAPPEN.

02:37PM 5 IT WAS TYPICAL TO SEND -- IT WAS TYPICAL THAT I WOULD SEND

02:37PM 6 THESE TYPES OF EMAILS IF A DEMO WERE TO HAPPEN.

02:37PM 7 Q. AND ARE WE TALKING HERE ABOUT A DEMO THAT WAS GOING TO

02:37PM 8 TAKE PLACE AT THE THERANOS FACILITY?

02:37PM 9 A. YES, AT THE THERANOS OFFICE.

02:37PM 10 Q. IN THIS EMAIL YOU MENTION "WILL NEED TO HAVE A 4S AND

02:37PM 11 MINILAB SET UP IN INTERVIEW ROOM NUMBER 1."

02:37PM 12 DO YOU SEE THAT AT THE TOP OF THE MESSAGE?

02:37PM 13 A. YES.

02:37PM 14 Q. DOES THAT REFER TO THE ACTUAL DEVICES THAT WERE GOING TO

02:38PM 15 BE PRESENT DURING THE VIP MEETING?

02:38PM 16 A. YES.

02:38PM 17 Q. AND THE 4S AND MINILAB, CAN YOU REMIND US WHETHER THOSE

02:38PM 18 WERE CURRENT GEN THERANOS DEVICES USED FOR PATIENT TESTING, OR

02:38PM 19 WERE THEY NEXT GEN DEVICES THAT WERE NEVER USED FOR CLINICAL

02:38PM 20 TESTING?

02:38PM 21 A. THEY WERE NEXT GENERATION DEVICES.

02:38PM 22 Q. BELOW THAT IN THE EMAIL, THERE'S A PLAN A AND A PLAN B,

02:38PM 23 AND IT SAYS "PLAN A IS TO HAVE BOTH ABLE TO RUN NULL

02:38PM 24 PROTOCOLS."

02:38PM 25 DO YOU SEE THAT?

02:38PM 1 A. YES.

02:38PM 2 Q. AND THEN THERE'S A QUESTION. YOU ASK, "MICHAEL -- CAN YOU

02:38PM 3 PLEASE REFRESH MY MEMORY IF THE NORMANDY OR THE DEMO APP IS

02:38PM 4 MORE APPROPRIATE FOR THIS?"

02:38PM 5 DO YOU SEE THAT?

02:38PM 6 A. YES.

02:38PM 7 Q. AND YOU SAYS "PLAN B IS TO HAVE THE 4S ABLE TO RUN A CBC,

02:38PM 8 IF POSSIBLE."

02:38PM 9 DO YOU SEE THAT?

02:38PM 10 A. YES.

02:38PM 11 Q. AND WHY WAS IT NECESSARY TO HAVE A PLAN A AND A PLAN B IN

02:38PM 12 THIS CASE?

02:38PM 13 A. IT WAS NECESSARY BECAUSE AT THE TIME OF WRITING THIS

02:39PM 14 EMAIL, I WAS UNSURE OF WHAT WOULD BE AVAILABLE AND WHAT

02:39PM 15 WOULD -- WHAT THE DEVICES WOULD BE CAPABLE OF DOING FOR THIS

02:39PM 16 MEETING.

02:39PM 17 Q. THIS EMAIL IS SENT ON AUGUST 8TH, 2013?

02:39PM 18 A. RIGHT.

02:39PM 19 Q. AND IT'S IN ADVANCE OF A DEMONSTRATION THAT WAS GOING TO

02:39PM 20 HAPPEN ABOUT FIVE DAYS LATER?

02:39PM 21 A. CORRECT.

02:39PM 22 Q. AND WAS THERE STILL SOME UNCERTAINTY ABOUT WHETHER THERE

02:39PM 23 WAS GOING TO BE A 4S ABLE TO RUN A BLOOD COUNT FIVE DAYS AFTER

02:39PM 24 THIS?

02:39PM 25 A. AT THE TIME OF WRITING, YES, THERE WAS UNCERTAINTY.

02:39PM 1 Q. WAS THAT A COMMON THING IN YOUR EXPERIENCE AT THERANOS FOR  
02:39PM 2 THERE TO BE UNCERTAINTY ABOUT WHAT EQUIPMENT WOULD BE AVAILABLE  
02:39PM 3 ON A CERTAIN DAY OR WHAT IT WOULD BE CAPABLE OF DOING?  
02:39PM 4 A. ONLY FOR A PERIOD OF TIME.  
02:39PM 5 LATER ON THERE WAS MORE CERTAINTY AND A MORE RELIABLE  
02:39PM 6 PROCESS FOR DEMOS.  
02:40PM 7 Q. THE PLAN A SECTION DISCUSSES THE POSSIBILITY OF HAVING  
02:40PM 8 THESE TWO DEVICES, THE 4S AND THE MINILAB, BEING ABLE TO RUN  
02:40PM 9 NULL PROTOCOLS.  
02:40PM 10 DO YOU SEE THAT?  
02:40PM 11 A. YES.  
02:40PM 12 Q. AND CAN YOU EXPLAIN WHAT THE NULL PROTOCOL WAS IN THIS  
02:40PM 13 CONTEXT?  
02:40PM 14 A. SO A PROTOCOL WAS ESSENTIALLY LOADED ONTO A DEVICE AND  
02:40PM 15 ACCORDING TO A DIFFERENT PROTOCOL, IT PROGRAMMED WHAT THE  
02:40PM 16 DEVICE WOULD ACTUALLY DO IF A CARTRIDGE WAS INSERTED INTO A  
02:40PM 17 DEVICE OR IF OTHER FUNCTIONS WERE REQUESTED OR IF A USER  
02:40PM 18 PRESSED A CERTAIN BUTTON ON THE DEVICE, FOR EXAMPLE.  
02:40PM 19 A NULL PROTOCOL WAS ONE OF SEVERAL PROTOCOLS THAT WAS  
02:40PM 20 AVAILABLE THROUGH THE DEMO APP, WHICH IS REFERRED TO HERE.  
02:41PM 21 THE NULL PROTOCOL BASICALLY MEANS JUST AN EMPTY PROTOCOL.  
02:41PM 22 SO THE NULL PROTOCOL WOULD NOT ATTEMPT TO RUN A BLOOD SAMPLE OR  
02:41PM 23 RUN A SAMPLE.  
02:41PM 24 Q. SO LET'S IMAGINE THAT WE'RE IN THAT CONFERENCE ROOM, THE  
02:41PM 25 DEVICE IS THERE, IT'S SET UP TO RUN THIS NULL PROTOCOL.

02:41PM 1 IF A SAMPLE IS PUT INTO THE MACHINE THEN, CAN YOU DESCRIBE  
02:41PM 2 WHAT THE VISITOR WOULD SEE OR WHAT WOULD WE SEE IN THAT CASE?  
02:41PM 3 A. THE VISITOR WOULD SEE A GRAPHIC USER INTERFACE ON THE  
02:41PM 4 DEVICE, AND THEN DEPENDING ON WHAT WAS DONE, THEY MIGHT SEE  
02:41PM 5 DIFFERENT THINGS, BUT THERE COULD BE -- I THINK AT ONE POINT  
02:41PM 6 THE DEVICE HAD LOADING OR INITIALIZING, SOMETHING LIKE THAT.  
02:41PM 7 Q. SO THE DEVICE RUNNING THE NULL PROTOCOL WOULD BE POWERED  
02:41PM 8 ON AND THE SCREEN WOULD BE ON?  
02:41PM 9 A. CORRECT.  
02:42PM 10 Q. AND WHEN THE SAMPLE WAS LOADED, YOU SAID THE SCREEN MIGHT  
02:42PM 11 SAY LOADING OR INITIALIZING?  
02:42PM 12 A. IF SOMETHING WAS LOADED.  
02:42PM 13 BUT WHEN A USER FIRST SAW IT, THEY WOULD BASICALLY -- I  
02:42PM 14 THINK THEY WOULD SEE A THERANOS LOGO, AND THEN A BUTTON THAT  
02:42PM 15 WOULD INITIALIZE THE STEPS TO POTENTIALLY PROCESS A SAMPLE.  
02:42PM 16 Q. OKAY. AND WHEN THE NULL PROTOCOL WAS RUNNING, WAS THE  
02:42PM 17 DEVICE CAPABLE OF ACCEPTING A SAMPLE? WOULD THE MACHINE OPEN  
02:42PM 18 AND THEN TAKE IN THE SAMPLE?  
02:42PM 19 A. I THINK IT COULD BE CAPABLE. BUT THE NULL PROTOCOL  
02:42PM 20 ITSELF, YES, WOULD ACCEPT A CARTRIDGE AND THERE COULD BE A  
02:42PM 21 NANOTAINER, OR NOT, ON THE CARTRIDGE, BUT THEN AFTERWARD  
02:43PM 22 NOTHING WOULD HAPPEN.  
02:43PM 23 Q. SO THE SAMPLE WOULD GO INTO THE DEVICE, BUT THE DEVICE IS  
02:43PM 24 NOT EVEN TRYING TO ACTUALLY RUN A TEST OR RETURN A RESULT; IS  
02:43PM 25 THAT RIGHT?

02:43PM 1 A. THAT IS MY UNDERSTANDING.

02:43PM 2 Q. OKAY. AND WAS THE NULL PROTOCOL AN ITEM OF SOFTWARE THAT

02:43PM 3 WAS SPECIFIC TO THE THERANOS EDISON?

02:43PM 4 A. IN MY EXPERIENCE THE NULL PROTOCOL ONLY APPLIED TO THE

02:43PM 5 NEXT GENERATION VERSION OF THE DEVICES, SO THE 4S OR THE

02:43PM 6 MINILAB AS IS IN THIS EMAIL.

02:43PM 7 Q. I SEE.

02:43PM 8 AND TO YOUR KNOWLEDGE, WAS THE NULL PROTOCOL SOMETHING

02:43PM 9 THAT WAS DEVELOPED IN HOUSE AT THERANOS?

02:43PM 10 A. I BELIEVE SO.

02:43PM 11 Q. WHO WOULD HAVE BEEN INVOLVED IN CREATING THE NULL

02:43PM 12 PROTOCOL?

02:43PM 13 A. THE SOFTWARE DEVELOPERS.

02:43PM 14 Q. AND THERE WAS A GROUP OF SOFTWARE DEVELOPERS AT THERANOS?

02:44PM 15 A. YES.

02:44PM 16 Q. AND TO WHOM DID THEY REPORT?

02:44PM 17 A. TO SUNNY.

02:44PM 18 Q. OKAY. AND ARE YOU AWARE OF MR. BALWANI'S BACKGROUND?

02:44PM 19 A. YES.

02:44PM 20 Q. WHAT WAS HIS BACKGROUND OR SPECIALTY IN BEFORE HE CAME TO

02:44PM 21 THERANOS?

02:44PM 22 A. I WOULD SAY BROADLY IN SOFTWARE.

02:44PM 23 Q. YOU ASKED MICHAEL CRAIG WHETHER THE NORMANDY OR DEMO APP

02:44PM 24 IS MORE APPROPRIATE FOR THIS.

02:44PM 25 CAN YOU EXPLAIN FOR US WHAT THAT MEANS? WHAT ARE THE APPS

02:44PM 1 AND WHAT IS THE DIFFERENCE BETWEEN THE NORMANDY AND THE DEMO  
02:44PM 2 APP?  
02:44PM 3 A. A DEMO APP WAS USED FOR DEMOS. THIS APP RESEMBLED WHAT I  
02:44PM 4 THINK IS GENERALLY COMMON ON PHONE APPS IN TERMS OF A SIMPLE  
02:44PM 5 DESIGN AND AN EASY USER EXPERIENCE.  
02:44PM 6 I BELIEVE THAT THE NORMANDY APP WAS USED IN THE LAB AND  
02:45PM 7 WAS NOT AS USER FRIENDLY TO, LET'S SAY, SOMEONE WHO WASN'T  
02:45PM 8 FAMILIAR WITH THE DEVICE.  
02:45PM 9 Q. SO WHEN YOU'RE TALKING ABOUT USER FRIENDLINESS, ARE WE  
02:45PM 10 TALKING ABOUT THINGS LIKE APPEARANCE AND HOW INTUITIVE IT IS?  
02:45PM 11 A. YES.  
02:45PM 12 Q. AND YOU'RE SAYING THAT THE VERSION OF THE INTERFACE THAT  
02:45PM 13 WOULD SHOW UP DURING A DEMONSTRATION FOR A VIP WOULD BE  
02:45PM 14 DIFFERENT FROM THE INTERFACE THAT WOULD ACTUALLY BE USED IN THE  
02:45PM 15 LAB?  
02:45PM 16 MS. WALSH: OBJECTION. LEADING.  
02:45PM 17 THE COURT: SUSTAINED.  
02:45PM 18 MR. BOSTIC: I CAN MOVE ON.  
02:45PM 19 Q. LET'S TURN TO THE FIRST PAGE OF THIS EXHIBIT AND LOOK AT  
02:45PM 20 THE BOTTOM, AND I WANT TO ASK YOU ABOUT ANOTHER FEATURE OF THE  
02:45PM 21 DEMO APP.  
02:45PM 22 LET'S ZOOM IN ON THE BOTTOM COUPLE OF MESSAGES. THERE.  
02:45PM 23 THANKS.  
02:45PM 24 DO YOU SEE ON THE BOTTOM THERE'S A RESPONSE TO YOUR  
02:45PM 25 QUESTION TO MICHAEL CRAIG ON THE BOTTOM RELATING TO THE DEMO

02:46PM 1 APP?

02:46PM 2 A. YES.

02:46PM 3 Q. AND MR. CRAIG SAYS, "I WOULD RECOMMEND THE DEMO APP,

02:46PM 4 ALTHOUGH EITHER WOULD WORK. THE DEMO APP MERELY SHIELDS

02:46PM 5 PROTOCOL FAILURES FROM THE CLIENT."

02:46PM 6 DO YOU SEE THAT?

02:46PM 7 A. YES.

02:46PM 8 Q. AND DO YOU HAVE AN UNDERSTANDING AS TO WHAT THAT MEANS?

02:46PM 9 A. YES.

02:46PM 10 Q. AND WHAT DOES THAT MEAN?

02:46PM 11 A. THIS MEANS THAT IF THE DEMO APP WAS ON THE DEVICE, AND IF

02:46PM 12 A TEST WAS BEING RUN AND THERE WAS AN ERROR, THAT ERROR WOULD

02:46PM 13 NOT APPEAR ON THE SCREEN.

02:46PM 14 Q. AND ARE WE TALKING ABOUT THE KIND OF ERROR THAT MIGHT

02:46PM 15 PREVENT A RESULT FROM BEING RETURNED ON A SAMPLE?

02:46PM 16 A. YES, ALONG WITH, I THINK THERE WERE A NUMBER OF DIFFERENT

02:46PM 17 KINDS OF ERRORS.

02:46PM 18 Q. WHAT WOULD HAPPEN INSTEAD IF A DEVICE DURING DEMONSTRATION

02:46PM 19 WAS RUNNING THE DEMO APP AND IT ENCOUNTERED THAT KIND OF ERROR

02:46PM 20 THAT WOULD PREVENT IT FROM RETURNING A RESULT? AGAIN, PUTTING

02:46PM 21 US BACK IN THE ROOM, WHAT WOULD WE SEE ON THE SCREEN, IF

02:46PM 22 ANYTHING?

02:46PM 23 A. I THINK THAT THE SCREEN WOULD STILL SAY PROCESSING.

02:47PM 24 Q. AND IT WOULD JUST SAY THAT INDEFINITELY?

02:47PM 25 A. I'M NOT SURE WHEN IT STOPPED IF IT DID.

02:47PM 1 Q. HOW WOULD THAT COMPARE TO THE VERSION OF THE SOFTWARE THAT  
02:47PM 2 WOULD ACTUALLY RUN IN THE LAB, IF YOU KNOW?

02:47PM 3 A. I'M NOT AN EXPERT ON THE NORMANDY APP OR WHAT WAS RUN IN  
02:47PM 4 THE LAB, BUT IT'S MY UNDERSTANDING THAT AS SOON AS AN ERROR  
02:47PM 5 OCCURRED, IT WOULD SHOW AND NOTIFY THE USER.

02:47PM 6 Q. OKAY. YOU RESPOND TO MR. CRAIG AND HIS DESCRIPTION ABOUT  
02:47PM 7 THE DEMO APP SHIELDING PROTOCOL FAILURES, YOU WRITE "NEVER A  
02:47PM 8 BAD THING."

02:47PM 9 DO YOU SEE THAT?

02:47PM 10 A. YES.

02:47PM 11 Q. AT THIS TIME DID YOU BELIEVE THAT IT WAS A GOOD IDEA TO  
02:47PM 12 HAVE THIS DEMO APP IN PLACE DURING VIP DEMOS LIKE THIS?

02:47PM 13 MS. WALSH: OBJECTION.

02:48PM 14 THE COURT: OVERRULED.

02:48PM 15 YOU CAN ANSWER THE QUESTION.

02:48PM 16 THE WITNESS: I BASED MY RECOMMENDATION ON THE  
02:48PM 17 INFORMATION THAT I WAS GIVEN, AND THE RECOMMENDATION FROM  
02:48PM 18 PEOPLE THAT I CONSIDERED EXPERTS AT THE COMPANY.

02:48PM 19 BY MR. BOSTIC:

02:48PM 20 Q. AND WHEN WE'RE TALKING ABOUT THESE MEETINGS WITH VIP'S,  
02:48PM 21 WHO WAS TYPICALLY RUNNING THESE MEETINGS? WAS IT YOU ACTUALLY  
02:48PM 22 RUNNING THE MEETINGS IN THE CONFERENCE ROOMS?

02:48PM 23 A. NO.

02:48PM 24 Q. WHO WAS -- WHO WOULD RUN THOSE MEETINGS?

02:48PM 25 A. IN MY EXPERIENCE MOST OF THE MEETINGS WERE RUN BY

02:48PM 1 ELIZABETH, AND THERE WERE OTHER MEETINGS THAT WERE ALSO RUN  
02:48PM 2 WITH SUNNY.

02:48PM 3 Q. LOOKING AT THE TOP OF THE SELECTION THAT IS ON THE SCREEN  
02:48PM 4 IN FRONT OF YOU, THERE'S A MESSAGE ON AUGUST 10TH, TWO DAYS  
02:48PM 5 LATER, FROM DANIEL YOUNG.

02:48PM 6 DO YOU SEE THAT?

02:48PM 7 A. YES.

02:48PM 8 Q. HE SAYS, "WE HAVE RE-ALLOCATED THE 4S DEVICES, SO THEY ARE  
02:49PM 9 NOT AVAILABLE FOR PREPARING TO RUN CBC FOR THIS DEMO,  
02:49PM 10 UNFORTUNATELY."

02:49PM 11 DO YOU SEE THAT?

02:49PM 12 A. YES.

02:49PM 13 Q. DOES THIS MEAN THAT PLAN B IN YOUR EMAIL, BEING ABLE TO  
02:49PM 14 HAVE THE 4S RUN A CBC, WAS NOT GOING TO BE POSSIBLE?

02:49PM 15 A. THAT'S CORRECT.

02:49PM 16 Q. LET'S LOOK AT THE TOP HALF OF PAGE 1, PLEASE.

02:49PM 17 IN YOUR EMAIL IN RESPONSE YOU SAY, "OK, THAT'S FINE."

02:49PM 18 DO YOU SEE THAT?

02:49PM 19 A. YES.

02:49PM 20 Q. AND YOU ASK, "WHEN ARE THE 4S AND THE MINILAB SCHEDULED TO  
02:49PM 21 BE MOVED TO INTERVIEW ROOM NUMBER 1?"

02:49PM 22 DO YOU SEE THAT?

02:49PM 23 A. YES.

02:49PM 24 Q. AND THEN YOU ALSO ASK ABOUT PUTTING ONE OF THE 3.5'S IN  
02:50PM 25 THE DEMO ROOM.

02:50PM 1 DO YOU SEE THAT?

02:50PM 2 A. YES.

02:50PM 3 Q. AND YOU ASK ABOUT THE COMFORT LEVEL WITH RUNNING A MALE

02:50PM 4 HEALTH/THYROID PANEL ON THE 3.5.

02:50PM 5 DO YOU SEE THAT?

02:50PM 6 A. YES.

02:50PM 7 Q. AND WHY WERE YOU ASKING ABOUT THE COMFORT LEVEL OF RUNNING

02:50PM 8 THAT ASSAY?

02:50PM 9 A. I WAS INTERESTED IN UNDERSTANDING WHETHER THAT WOULD BE A

02:50PM 10 POTENTIAL OPTION FOR A DEMO MEETING, AND IF THAT TYPE OF TEST

02:50PM 11 COULD BE OFFERED TO THE GUESS.

02:50PM 12 Q. IN OTHER WORDS, WHETHER THAT TEST WAS READY FOR USE IN

02:50PM 13 THIS KIND OF TEST?

02:50PM 14 A. YES.

02:50PM 15 Q. IN THE TOP EMAIL IN THIS CHAIN, SAMARTHA ANEKAL WRITES,

02:50PM 16 "DAN, THE ASSAY TEAMS ARE PLANNING ON USING THE 3.5 DEVICES

02:50PM 17 TOMORROW, BUT WE CAN MOVE ONE OF THE R&D UNITS IF IT'S JUST FOR

02:50PM 18 SHOW-AND-TELL?"

02:51PM 19 DO YOU SEE THAT?

02:51PM 20 A. YES.

02:51PM 21 Q. AND DO YOU RECALL WHEN THERANOS FIRST BEGAN OFFERING

02:51PM 22 CLINICAL BLOOD TESTS TO PATIENTS?

02:51PM 23 A. YES. IN SEPTEMBER OF 2013.

02:51PM 24 Q. THE MONTH AFTER THIS TOOK PLACE?

02:51PM 25 A. YES.

02:51PM 1 Q. OKAY. YOU CAN PUT THAT ASIDE.

02:51PM 2 I'LL ASK YOU TO TURN NEXT TO TAB 961 IN YOUR BINDER.

02:51PM 3 A. OKAY.

02:51PM 4 Q. AND AT 961, DO YOU SEE ANOTHER EMAIL CHAIN INCLUDING YOU,

02:51PM 5 MR. BALWANI, AND MS. HOLMES RELATING TO COORDINATION FOR A DEMO

02:51PM 6 THE FOLLOWING DAY?

02:51PM 7 A. YES.

02:51PM 8 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 961.

02:51PM 9 MS. WALSH: NO OBJECTION.

02:51PM 10 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

02:51PM 11 (GOVERNMENT'S EXHIBIT 961 WAS RECEIVED IN EVIDENCE.)

02:51PM 12 BY MR. BOSTIC:

02:51PM 13 Q. SO, MR. EDLIN, STARTING WITH YOUR EMAIL, YOU WRITE TO

02:52PM 14 MS. HOLMES AND MR. BALWANI, "THE FOLLOWING DEVICES ARE PLANNED

02:52PM 15 TO BE IN THE DEMO/INTERVIEW ROOM."

02:52PM 16 DO YOU SEE THAT?

02:52PM 17 A. YES.

02:52PM 18 Q. AND WHY WERE YOU COORDINATING WITH MS. HOLMES AND

02:52PM 19 MR. BALWANI ON THE DETAILS FOR THIS DEMO FOR TOMORROW'S

02:52PM 20 MEETING?

02:52PM 21 A. I WANTED TO MAKE SURE THAT THEY WERE AWARE OF WHICH

02:52PM 22 DEVICES WOULD BE IN THE ROOM AND WHAT THE CAPABILITIES WERE.

02:52PM 23 I BELIEVE IN THIS CASE THEY WERE BRINGING THE GUESTS TO

02:52PM 24 THE ROOM.

02:52PM 25 Q. AND YOU MENTION AN ASSORTMENT OF DEVICES THAT WERE GOING

02:52PM 1 TO BE IN THE DEMO/INTERVIEW ROOM. NUMBER ONE ON THAT LIST WAS  
02:52PM 2 A 3.5 EDISON WITH A DEMO APP SET TO RUN THE NULL PROTOCOL.  
02:52PM 3 DO YOU SEE THAT?  
02:52PM 4 A. YES.  
02:52PM 5 Q. AND THEN THERE'S A 4S WITH THE DEMO APP ALSO SET TO RUN  
02:53PM 6 THE NULL PROTOCOL?  
02:53PM 7 A. YES.  
02:53PM 8 Q. AND THEN WE SEE TWO MINILABS, ONE THAT COULD RUN THE NULL  
02:53PM 9 PROTOCOL AND ONE THAT COULD NOT; IS THAT RIGHT?  
02:53PM 10 A. YES.  
02:53PM 11 Q. AND THEN YOU ASK ABOUT WHETHER THEY WOULD ALSO LIKE TO  
02:53PM 12 HAVE A 3.0 EDISON THAT COULD RUN THE H1N1 MILITARY DEMO; IS  
02:53PM 13 THAT RIGHT?  
02:53PM 14 A. YES.  
02:53PM 15 Q. AND IF THAT 3.0 EDISON WAS NOT INCLUDED, WOULD ANY OF  
02:53PM 16 THESE FOUR DEVICES THAT YOU LIST BE CAPABLE OF ACTUALLY RUNNING  
02:53PM 17 A PATIENT SAMPLE IN THE ROOM?  
02:53PM 18 A. I'M NOT SURE.  
02:53PM 19 Q. THE FIRST THREE, IT MENTIONS THEY'RE SET TO RUN THE NULL  
02:53PM 20 PROTOCOL; IS THAT CORRECT?  
02:53PM 21 A. YES.  
02:53PM 22 Q. DID THE NULL PROTOCOL INVOLVE ACTUALLY PROCESSING A  
02:53PM 23 PATIENT SAMPLE AND RETURNING A RESULT?  
02:54PM 24 A. NO.  
02:54PM 25 Q. AND DEVICE NUMBER 4, YOU NOTE THAT IT WOULD NOT BE ABLE TO

02:54PM 1 RUN THE NULL PROTOCOL, DUE TO OLD PIPETTE NOZZLES THAT FAIL  
02:54PM 2 ONCE THEY INITIALIZE IN THE PROTOCOL?  
02:54PM 3 A. RIGHT.  
02:54PM 4 Q. WOULD THAT DEVICE BE CAPABLE OF RUNNING A PATIENT SAMPLE  
02:54PM 5 BASED ON THAT PROBLEM?  
02:54PM 6 A. I DON'T BELIEVE SO.  
02:54PM 7 Q. OKAY. WE CAN PUT THAT ASIDE. THANK YOU.  
02:54PM 8 AND LET ME ASK YOU TO LOOK NEXT AT TAB 860, PLEASE.  
02:55PM 9 A. OKAY.  
02:55PM 10 Q. DO YOU SEE AT TAB 860 ANOTHER EMAIL CHAIN INCLUDING YOU  
02:55PM 11 AND MS. HOLMES AND MR. BALWANI RELATING TO COORDINATION AND  
02:55PM 12 RESULTS FROM ONE OF THESE DEMOS?  
02:55PM 13 A. YES.  
02:55PM 14 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 860.  
02:55PM 15 MS. WALSH: NO OBJECTION.  
02:55PM 16 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.  
02:55PM 17 (GOVERNMENT'S EXHIBIT 860 WAS RECEIVED IN EVIDENCE.)  
02:55PM 18 MR. BOSTIC: LET'S START ON PAGE 12. THANK YOU,  
02:55PM 19 MS. WACHS. AND IF WE CAN ZOOM IN ON THE BOTTOM JUST TO HAVE  
02:55PM 20 THAT HEADER INFORMATION FOR THAT EMAIL.  
02:55PM 21 Q. DO YOU SEE, MR. EDLIN, WE'RE ABOUT TO LOOK AT AN EMAIL  
02:55PM 22 FROM YOU ON MAY 31ST, 2013?  
02:55PM 23 A. YES.  
02:55PM 24 Q. AND THE SUBJECT LINE IS SAMPLE RUNNING RIGHT NOW.  
02:55PM 25 DO YOU SEE THAT?

02:55PM 1 A. YES.

02:55PM 2 Q. LET'S LOOK AT PAGE 13.

02:55PM 3 AT THE TOP OF PAGE 13 YOU ASK, "WHAT IS THE STATUS? IT'S

02:56PM 4 ALREADY BEEN RUNNING FOR 1 HOUR 15 MINUTES AND HAS BEEN STUCK

02:56PM 5 ON 99 PERCENT FOR ABOUT 8 MINUTES."

02:56PM 6 DO YOU RECALL WHAT YOU WERE REFERRING TO IN THIS EMAIL?

02:56PM 7 A. YES.

02:56PM 8 Q. AND CAN YOU EXPLAIN IT FOR US?

02:56PM 9 A. THIS REFERS TO A DEMO THAT WAS BEING RUN AT A HOSPITAL IN

02:56PM 10 NEW YORK, AND A SAMPLE WAS RUNNING ON ONE OF THE DEVICES IN THE

02:56PM 11 ROOM, AND I WAS KEEPING TABS ON THE DEVICE TO MAKE SURE THAT IT

02:56PM 12 WAS RUNNING AND THAT IT WOULD BE COMPLETED IN TIME FOR THE END

02:56PM 13 OF THE MEETING, AND I NOTICED THAT THE PROCESS, HAVING

02:56PM 14 COMPLETED IT, WAS STUCK ON 99 PERCENT.

02:56PM 15 SO I SENT AN EMAIL TO ONE OF THE -- TO SANDHYA, WHO WAS A

02:56PM 16 SOFTWARE ENGINEER OR A DEVELOPER, TO ASK ABOUT WHY THAT WAS.

02:56PM 17 Q. AND WHEN THIS DEMO WAS HAPPENING, WERE YOU PRESENT IN

02:57PM 18 NEW YORK WITH THE DEVICE?

02:57PM 19 A. YES.

02:57PM 20 Q. AND YOU WERE COORDINATING WITH THERANOS PERSONNEL BACK IN

02:57PM 21 CALIFORNIA?

02:57PM 22 A. CORRECT.

02:57PM 23 Q. AND WHY WAS THE DEVICE IN THAT HOSPITAL IN NEW YORK? WAS

02:57PM 24 IT THERE BECAUSE THAT HOSPITAL WAS USING THE DEVICE FOR PATIENT

02:57PM 25 TESTING?

02:57PM 1 A. NO. THAT MEETING WAS CENTERED ON SHARING WHAT THERANOS AS  
02:57PM 2 A COMPANY WAS DOING AND EXPLORING POTENTIAL OPPORTUNITIES TO  
02:57PM 3 PARTNER WITH THE HOSPITAL.

02:57PM 4 Q. SO YOU WERE THERE WITH THE DEVICE FOR PURPOSES OF THAT  
02:57PM 5 DEMONSTRATION?

02:57PM 6 A. CORRECT. I WAS WITH A GROUP OF THERANOS EMPLOYEES.

02:57PM 7 Q. AND LET'S LOOK AT PAGE 11 OF THE EMAIL.

02:57PM 8 IF WE ZOOM IN ON THE MIDDLE OF THE PAGE, WE SEE THERE'S  
02:57PM 9 SOME DISCUSSION ABOUT WHAT THE RUN TIME OF THAT SHOULD HAVE  
02:57PM 10 BEEN; CORRECT?

02:57PM 11 A. CORRECT.

02:58PM 12 Q. AND THEN LET'S LOOK AT THE TOP OF THIS PAGE.

02:58PM 13 OKAY. AND DO YOU SEE IN THE BOTTOM OF YOUR EMAIL HERE, IT  
02:58PM 14 SAYS, "NOTE THAT THE SAME DONOR GAVE BLOOD FOR THE 3.0 RUN AS  
02:58PM 15 WELL AS THE RUN SCHEDULED FOR TONIGHT, AND WE WILL BE COMPARING  
02:58PM 16 RESULTS."

02:58PM 17 DO YOU SEE THAT?

02:58PM 18 A. YES.

02:58PM 19 Q. OKAY. LET'S GO TO PAGE 10. WE'RE MOVING FORWARD IN TIME  
02:58PM 20 NOW. LET'S ZOOM IN ON THE TEXT OF THIS MIDDLE EMAIL.

02:58PM 21 IS THIS AN EMAIL FROM YOU TO DANIEL YOUNG?

02:58PM 22 A. YES.

02:58PM 23 Q. IT SAYS AT THE TOP, "GIVEN THAT THE SAMPLES ARE BEING RUN  
02:58PM 24 AT THIS LATE HOUR, I JUST WANT TO TOUCH BASE WITH YOU TO ENSURE  
02:58PM 25 THAT WE'RE COORDINATED FOR THESE REPORTS."

02:58PM 1 DO YOU SEE THAT?

02:58PM 2 A. YES.

02:58PM 3 Q. WHAT ROLE DID DANIEL YOUNG HAVE IN CONNECTION WITH THE

02:58PM 4 RESULTS FROM THESE REPORTS, OR THESE DEMOS?

02:59PM 5 A. DANIEL REVIEWED THE RESULTS AND THE TEST LOGS TO ENSURE

02:59PM 6 THAT THE TEST WAS VALID, AND HE INTERPRETED THE RESULTS, AND

02:59PM 7 THEN APPROVED THEM FOR DISTRIBUTION BACK TO THE GUEST.

02:59PM 8 Q. AND WAS THAT HIS REGULAR ROLE IN CONNECTION WITH

02:59PM 9 DEMONSTRATIONS LIKE THIS?

02:59PM 10 A. YES.

02:59PM 11 Q. DID HE HAVE THAT SAME ROLE IN CONNECTION WITH CLINICAL

02:59PM 12 PATIENT TESTING AT THERANOS?

02:59PM 13 A. I'M NOT EXACTLY SURE, BUT I KNOW THAT HE WAS A LAB

02:59PM 14 DIRECTOR.

02:59PM 15 Q. YOU BELIEVE THAT DANIEL YOUNG WAS A LAB DIRECTOR OF THE

02:59PM 16 CLINICAL LAB AT THERANOS?

02:59PM 17 A. I BELIEVE IT WAS IN THE ARIZONA LAB.

02:59PM 18 Q. AT THE BOTTOM OF YOUR EMAIL, THE LAST SENTENCE SAYS, "I'LL

02:59PM 19 BASE MY SCHEDULE ON YOUR AVAILABILITY SO THAT WE CAN FINALIZE

03:00PM 20 THE REPORTS AND GET THEM TO EAH FOR APPROVAL AS SOON AS

03:00PM 21 POSSIBLE."

03:00PM 22 DO YOU SEE THAT?

03:00PM 23 A. YES.

03:00PM 24 Q. WAS EAH ELIZABETH HOLMES?

03:00PM 25 A. YES.

03:00PM 1 Q. AND WHAT WAS HER ROLE IN CONNECTION WITH THE RESULTS FROM  
03:00PM 2 THESE DEMO TESTS?

03:00PM 3 A. IN CONNECTION TO THIS PARTICULAR DEMO, I REMEMBER THAT  
03:00PM 4 ELIZABETH WAS INTERESTED IN SEEING WHAT THE END RESULTS WOULD  
03:00PM 5 BE. BUT USUALLY SHE WAS NOT INVOLVED IN REVIEWING RESULTS FOR  
03:00PM 6 DEMOS.

03:00PM 7 Q. ALL RIGHT. LET'S LOOK AT PAGE 8, AND THE BOTTOM OF THE  
03:00PM 8 PAGE, AND JUST TO CAPTURE THAT HEADER INFORMATION FOR THAT  
03:00PM 9 BOTTOM EMAIL.

03:00PM 10 WE'RE LOOKING AT AN EMAIL FROM YOU ON THAT SATURDAY,  
03:00PM 11 JUNE 1ST, TO MS. HOLMES, MR. BALWANI, AND DANIEL YOUNG.

03:00PM 12 DO YOU SEE THAT?

03:00PM 13 A. YES.

03:00PM 14 Q. AND YOU'RE PROVIDING SOME INFORMATION ABOUT THE TEST.  
03:01PM 15 LET'S LOOK, IN PARTICULAR, AT THE FOLLOWING PAGE, PAGE 9.  
03:01PM 16 AND AT THE TOP OF THAT PAGE YOU SAY IN YOUR EMAIL, "IT  
03:01PM 17 LOOKS LIKE THERE IS SOME DISCREPANCY BETWEEN THE TWO INFECTIOUS  
03:01PM 18 PANEL RUNS -- ANY THOUGHTS ON WHY THIS IS THE CASE?"  
03:01PM 19 DO YOU SEE THAT?

03:01PM 20 A. YES.

03:01PM 21 Q. AND DO YOU RECALL THAT EARLIER IN THE CHAIN WE SAW THAT  
03:01PM 22 THIS SAME DONOR HAD DONATED FOR TWO DIFFERENT KINDS OF ANALYSIS  
03:01PM 23 AND THE RESULTS WERE GOING TO BE COMPARED?

03:01PM 24 A. YES.

03:01PM 25 Q. AND YOU'RE HIGHLIGHTING A DISCREPANCY BETWEEN TWO RUNS OF

03:01PM 1 THE SAME PANEL; CORRECT?

03:01PM 2 A. CORRECT.

03:01PM 3 Q. BUT THESE SAMPLES WERE FROM THE SAME DONOR?

03:01PM 4 A. CORRECT.

03:01PM 5 Q. AND WHY DID YOU WANT TO ASK MS. HOLMES, MR. BALWANI, AND

03:02PM 6 DR. YOUNG ABOUT THIS?

03:02PM 7 A. AS PART OF MY ROLE IN THIS DEMONSTRATION, MY ROLE WAS TO

03:02PM 8 SEND THE RESULTS BACK TO THE PATIENT, EMAIL THEM BACK AFTER

03:02PM 9 RECEIVING THEM FROM THE LAB, AND I NOTICED THAT THERE WAS A

03:02PM 10 DISCREPANCY, AND I WAS CURIOUS AS TO WHY THAT WAS, AND I WANTED

03:02PM 11 TO MAKE SURE THAT THE GROUP ON THIS EMAIL WAS AWARE OF IT.

03:02PM 12 Q. LET'S LOOK AT PAGE 7 AND GET SOME MORE DETAILS ABOUT WHAT

03:02PM 13 WAS HAPPENING HERE.

03:02PM 14 I'M SORRY THAT THESE EMAILS ARE SO NARROW HERE.

03:02PM 15 LET'S LOOK AT YOUR MESSAGE, SO THE BOTTOM TWO-THIRDS.

03:02PM 16 DO YOU SEE YOU PROVIDE SOME ADDITIONAL CONTEXT ABOUT THIS

03:02PM 17 DISCREPANCY? AND YOU SAY FOR TEST NUMBER 1 THE SAMPLE WAS

03:03PM 18 COLLECTED, DEPOSITED DIRECTLY INTO A CARTRIDGE, AND RUN ON

03:03PM 19 SITE.

03:03PM 20 THE CARTRIDGE HAD BEEN SHIPPED TO NYC IN STANDARD

03:03PM 21 PACKAGING.

03:03PM 22 DO YOU SEE THAT?

03:03PM 23 A. YES.

03:03PM 24 Q. AND LET'S TURN THE PAGE AND LOOK AT PAGE 8 WHERE AT THE

03:03PM 25 TOP YOU ADDRESS SAMPLE NUMBER 2, AND YOU SAY, "SAMPLE NUMBER 2

03:03PM 1 WAS ALIQUOTED FROM THE BCD 2.1 NANOTAINERS, PIPETTED DIRECTLY  
03:03PM 2 INTO A CARTRIDGE, AND RUN AT THERANOS."

03:03PM 3 AND BELOW THAT YOU SAY, "BOTH CARTRIDGES WERE RUN ON THE  
03:03PM 4 SAME READER."

03:03PM 5 DO YOU SEE THAT?

03:03PM 6 A. YES.

03:03PM 7 Q. AND SO IS THIS A SITUATION WHERE TWO SAMPLES FROM THE SAME  
03:03PM 8 DONOR WERE RUN ON THE SAME THERANOS READER BUT PRODUCED TWO  
03:03PM 9 DIFFERENT RESULTS?

03:03PM 10 A. YES.

03:03PM 11 Q. AND WHY IS THAT A PROBLEM?

03:03PM 12 MS. WALSH: OBJECTION.

03:03PM 13 THE COURT: IT MIGHT BE A FOUNDATIONAL ISSUE. IF  
03:04PM 14 YOU WANT TO LAY A FOUNDATION.

03:04PM 15 BY MR. BOSTIC:

03:04PM 16 Q. LET ME ASK, WAS THAT VIEWED AS A PROBLEM AT THERANOS?

03:04PM 17 A. YES.

03:04PM 18 Q. LET'S LOOK AT THE TOP OF PAGE 7, AND ZOOM IN ON  
03:04PM 19 MS. HOLMES'S EMAIL WHERE SHE WRITES TO YOU, DANIEL YOUNG, AND  
03:04PM 20 SUNNY BALWANI, "THE DISCREPANCY WILL BE A PROBLEM."

03:04PM 21 DO YOU SEE THAT?

03:04PM 22 A. YES.

03:04PM 23 Q. AND WERE YOU A PART OF ANY DISCUSSIONS WITH MS. HOLMES OR  
03:04PM 24 MR. BALWANI ABOUT THIS DISCREPANCY, THIS PROBLEM THAT YOU WERE  
03:04PM 25 SEEING, BESIDES THIS EMAIL?

03:04PM 1 A. NOT FOR THIS -- I DON'T BELIEVE, ASIDE FROM THIS EMAIL,  
03:04PM 2 THERE WAS DISCUSSION ABOUT IT.

03:04PM 3 Q. LET'S FAST FORWARD AND LOOK AT THE RESOLUTION HERE. LET'S  
03:04PM 4 GO TO PAGE 4 AND ZOOM IN ON THE TOP PART OF THE PAGE.

03:05PM 5 AND DO YOU SEE HERE AN EMAIL FROM MS. HOLMES ABOUT THIS  
03:05PM 6 SAME TOPIC?

03:05PM 7 A. YES.

03:05PM 8 Q. AND AFTER GETTING SOME INFORMATION FROM DANIEL YOUNG, SHE  
03:05PM 9 SAYS, "AGREE ON THE PA MEASLES RESULT."

03:05PM 10 DO YOU UNDERSTAND THAT TO REFER TO PALO ALTO?

03:05PM 11 A. YES.

03:05PM 12 Q. SHE SAYS, "AGREE ON THE PA MEASLES RESULT. WE'LL ONLY  
03:05PM 13 INCLUDE THAT ONE FROM PA. I WOULD INTEGRATE THE PA ONLY  
03:05PM 14 INFECTIOUS RESULTS WITH THE REST OF THE REPORT RESULTS AND THEN  
03:05PM 15 ONLY CALL OUT AS INFECTIOUS THE ONES WE SHOW FOR BOTH PALO ALTO  
03:05PM 16 AND NEW YORK."

03:05PM 17 DO YOU SEE THAT?

03:05PM 18 A. YES.

03:05PM 19 Q. LET'S GO TO PAGE 3 AND ZOOM IN ON THE TOP HALF OF THE  
03:05PM 20 PAGE.

03:06PM 21 DO WE SEE HERE A MESSAGE FROM DANIEL YOUNG ON JUNE 1ST AT  
03:06PM 22 5:11 P.M.?

03:06PM 23 DO YOU SEE THAT?

03:06PM 24 A. YES.

03:06PM 25 Q. AND BELOW THE BULLET POINTS IN HIS EMAIL, HE IS ADDRESSING

03:06PM 1 YOU, I BELIEVE, IS THAT RIGHT, WHERE HE SAYS DAN?

03:06PM 2 A. YES.

03:06PM 3 Q. HE SAYS, FOR BILIRUBIN, TOTAL, CAN YOU CHANGE THE

03:06PM 4 REFERENCE RANGE, AND HE PROVIDES A RANGE, AND REMOVE THE

03:06PM 5 L INDICATOR.

03:06PM 6 AND ON CALCIUM HE ALSO ASKS YOU TO CHANGE THE RANGE. HE

03:06PM 7 SAYS IT DOESN'T CHANGE THE OUTCOME, BUT SHOWS THE RESULT TO BE

03:06PM 8 CLOSER TO THE REFERENCE RANGE.

03:06PM 9 DO YOU SEE THAT?

03:06PM 10 A. YES.

03:06PM 11 Q. AND CAN YOU EXPLAIN WHAT IS HAPPENING HERE?

03:06PM 12 A. HERE THE REFERENCE RANGES FOR THE TESTS ARE BEING MODIFIED

03:06PM 13 AND THE RESULTING IMPACT IS THAT CERTAIN OF THE RESULTS COMPARE

03:07PM 14 DIFFERENTLY TO THAT RELATIVE RANGE.

03:07PM 15 Q. FROM YOUR WORK AT THERANOS, DID YOU HAVE AN UNDERSTANDING

03:07PM 16 AS TO WHAT THE TERM "REFERENCE RANGE" MEANT?

03:07PM 17 A. MY UNDERSTANDING IS THAT IF A RESULT FOR A CERTAIN TEST IS

03:07PM 18 WITHIN A REFERENCE RANGE, IT'S CONSIDERED A HEALTHY RESULT.

03:07PM 19 Q. SO, FOR EXAMPLE, FOR THE BILIRUBIN TEST FOR THIS DEMO,

03:07PM 20 THIS EMAIL FROM DANIEL YOUNG SAYS THAT CHANGING THE REFERENCE

03:07PM 21 RANGE AS REQUESTED WOULD ALSO RESULT IN REMOVING THE

03:07PM 22 L INDICATOR.

03:07PM 23 DO YOU SEE THAT?

03:07PM 24 A. YES.

03:07PM 25 Q. AND DO YOU HAVE AN UNDERSTANDING AS TO WHAT THE

03:07PM 1 L INDICATOR WOULD MEAN?

03:07PM 2 A. THAT WOULD REFER TO LOW.

03:07PM 3 SO IF A TEST RESULT WAS NOT WITHIN THE REFERENCE RANGE, IT

03:07PM 4 WOULD HAVE AN INDICATION, IN THIS CASE L, BUT IT COULD ALSO

03:07PM 5 HAVE AN INDICATION H FOR HIGH.

03:08PM 6 Q. SO IN THIS CASE CHANGING THE REFERENCE RANGE WOULD RESULT

03:08PM 7 IN THE RESULT NO LONGER BEING LOW; IS THAT CORRECT?

03:08PM 8 A. CORRECT.

03:08PM 9 Q. AND FOR CALCIUM, IS DANIEL YOUNG SAYING THAT THE CHANGE IN

03:08PM 10 REFERENCE RANGE WOULD MAKE THE RESULT CLOSER TO THE REFERENCE

03:08PM 11 RANGE?

03:08PM 12 DO YOU SEE THAT?

03:08PM 13 MS. WALSH: OBJECTION.

03:08PM 14 THE COURT: OVERRULED.

03:08PM 15 YOU CAN ANSWER.

03:08PM 16 THE WITNESS: CAN YOU REPEAT THE QUESTION?

03:08PM 17 BY MR. BOSTIC:

03:08PM 18 Q. SURE. DO YOU SEE IN THE EMAIL DANIEL YOUNG SAYING THAT

03:08PM 19 CHANGING THE REFERENCE RANGE FOR CALCIUM WOULD MAKE THE RESULTS

03:08PM 20 FOR THIS DONOR CLOSER TO THE REFERENCE RANGE?

03:08PM 21 A. YES.

03:08PM 22 Q. SO, IN OTHER WORDS, CLOSER TO THE NORMAL RANGE?

03:08PM 23 A. CORRECT.

03:08PM 24 Q. AND WAS THIS SOMETHING THAT YOU SAW ON MULTIPLE OCCASIONS,

03:08PM 25 DANIEL YOUNG ALTERING RESULTS OR REFERENCES FOR DEMOS THAT TOOK

03:08PM 1 PLACE AT THERANOS?

03:08PM 2 MS. WALSH: OBJECTION. LEADING.

03:08PM 3 THE COURT: WOULD YOU REPHRASE?

03:09PM 4 BY MR. BOSTIC:

03:09PM 5 Q. WAS THIS THE ONLY TIME THAT YOU SAW DANIEL YOUNG DO

03:09PM 6 SOMETHING LIKE THIS AFTER THE FACT WITH DEMO RESULTS, EITHER

03:09PM 7 ADJUSTING THE RESULTS THEMSELVES OR THE REFERENCE RANGES?

03:09PM 8 A. NO.

03:09PM 9 Q. YOU SAW THAT ON OTHER OCCASIONS?

03:09PM 10 A. YES.

03:09PM 11 Q. OKAY. LET'S LOOK AT 871 NEXT, PLEASE, IN YOUR BINDER.

03:09PM 12 AND ONCE YOU HAVE IT, LET ME KNOW IF YOU SEE AT 871

03:09PM 13 ANOTHER EMAIL CHAIN INCLUDING YOU AND MR. BALWANI RELATING TO

03:09PM 14 DEMO COORDINATION.

03:09PM 15 A. YES.

03:09PM 16 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 871.

03:09PM 17 MS. WALSH: NO OBJECTION.

03:09PM 18 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:09PM 19 (GOVERNMENT'S EXHIBIT 871 WAS RECEIVED IN EVIDENCE.)

03:09PM 20 MR. BOSTIC: LET'S START AT THE BOTTOM OF THIS PAGE,

03:09PM 21 PAGE 2.

03:09PM 22 Q. DO YOU SEE THAT THIS STARTS WITH AN EMAIL FROM

03:09PM 23 CHRISTIAN HOLMES TO YOU AND OTHERS AT THERANOS; IS THAT RIGHT?

03:10PM 24 A. YES.

03:10PM 25 Q. AND IT SAYS, "SUNNY MENTIONED THAT HE'D LIKE TO RUN A DEMO

03:10PM 1 DURING AN EXEC MEETING NEXT TUESDAY."

03:10PM 2 DO YOU SEE THAT?

03:10PM 3 A. YES.

03:10PM 4 Q. LET'S GO UP ON THIS PAGE, AND ZOOM IN ON THE MIDDLE FEW

03:10PM 5 MESSAGES.

03:10PM 6 DANIEL YOUNG RESPONDS AND ASKS WHETHER THERE'S ANY

03:10PM 7 PREFERENCE FOR DEVICE TYPE, MONOBAY, MINILAB, OR 4S.

03:10PM 8 DO YOU SEE THAT?

03:10PM 9 A. YES.

03:10PM 10 Q. ARE THOSE ALL NEXT GENERATION DEVICES NEVER USED FOR

03:10PM 11 PATIENT TESTING AT THERANOS?

03:10PM 12 MS. WALSH: OBJECTION. LEADING.

03:10PM 13 THE COURT: OVERRULED.

03:10PM 14 THE WITNESS: YES.

03:10PM 15 BY MR. BOSTIC:

03:10PM 16 Q. LET'S ZOOM OUT AND CAPTURE THE TOP OF THIS PAGE.

03:10PM 17 AND YOU WRITE BACK, "JUST CAUGHT UP WITH SUNNY. HE

03:10PM 18 DEFINITELY WANTS TO HAVE A MINILAB AND THEN EITHER A 4S OR

03:10PM 19 MONOBAY (WHICHEVER IS WORKING BETTER)."

03:10PM 20 DO YOU SEE THAT?

03:11PM 21 A. YES.

03:11PM 22 Q. AND THAT PHRASE, "WHICHEVER IS WORKING BETTER," WHAT WAS

03:11PM 23 THE SIGNIFICANCE OF THAT?

03:11PM 24 A. I THINK THAT REFERS TO THE DEVICE CAPABILITIES AND ABILITY

03:11PM 25 TO PROCESS A TEST OR RUN A TEST.

03:11PM 1 Q. AND DURING YOUR TIME AT THERANOS, IS THAT SOMETHING THAT  
03:11PM 2 KIND OF VARIED FROM DAY-TO-DAY WHETHER A CERTAIN DEVICE WAS  
03:11PM 3 WORKING OR AVAILABLE FOR THIS KIND OF DEMO?  
03:11PM 4 A. I THINK I MENTIONED EARLIER THERE WAS A TIME PERIOD WHEN  
03:11PM 5 THERE WAS A LITTLE UNCERTAINTY, AND THIS FALLS WITHIN THAT TIME  
03:11PM 6 PERIOD.  
03:11PM 7 Q. LET'S GO TO PAGE 1, AND LET'S ZOOM IN ON THE BOTTOM HALF  
03:11PM 8 OF THE PAGE.  
03:11PM 9 THERE'S AN EMAIL FROM YOU AT THE BOTTOM WHERE YOU SAY,  
03:11PM 10 FOR TOMORROW'S DEMO, WE'D LIKE TO HAVE A MINILAB AND EITHER A  
03:11PM 11 4S OR MONOBAY, WITH THE NORMANDY SHELL UPLOADED.  
03:11PM 12 DO YOU SEE THAT?  
03:12PM 13 A. YES.  
03:12PM 14 Q. AND THEN AT THE BOTTOM YOU SAY, "SAM INDICATED THAT THE  
03:12PM 15 DEVICES ARE CAPABLE OF RUNNING A CBC."  
03:12PM 16 DO YOU SEE THAT?  
03:12PM 17 A. YES.  
03:12PM 18 Q. AND YOU ASK THAT FIVE PRACTICE TESTS BE RUN ON EACH DEVICE  
03:12PM 19 TO MAKE SURE THAT THEY'RE ABLE TO DO SO?  
03:12PM 20 A. YES.  
03:12PM 21 Q. AND WHY DID YOU THINK THAT THAT STEP WAS NECESSARY?  
03:12PM 22 A. I'M NOT SURE IF I THOUGHT THE STEP WAS NECESSARY, BUT I  
03:12PM 23 BELIEVE THAT I WAS PASSING ALONG A REQUEST TO DO THOSE TESTS TO  
03:12PM 24 ENSURE THAT THE DEVICES WERE FUNCTIONING IN AN ACCEPTABLE WAY.  
03:12PM 25 Q. LET'S ZOOM IN ON THE TOP HALF OF THIS PAGE.

03:12PM 1 DO YOU SEE AT THE BOTTOM OF THAT COLLECTION AN EMAIL FROM  
03:12PM 2 MR. BALWANI TO YOU AND DANIEL YOUNG?  
03:12PM 3 A. YES.  
03:12PM 4 Q. HE SAYS, "GIVEN ML DOESN'T HAVE CYTO, WHAT ARE WE PLANNING  
03:12PM 5 ON RUNNING ON ML?"  
03:12PM 6 DO YOU SEE THAT?  
03:12PM 7 A. YES.  
03:12PM 8 Q. AND WHAT WAS ML REFERRING TO?  
03:12PM 9 A. THE MINILAB TOWER, I BELIEVE AT THIS TIME.  
03:12PM 10 Q. OKAY. THANK YOU.  
03:12PM 11 AND WHEN MR. BALWANI SAYS, "THE ML DOESN'T HAVE CYTO," DO  
03:13PM 12 YOU HAVE A SENSE OR AN UNDERSTANDING OF WHAT "CYTO" MEANS  
03:13PM 13 THERE?  
03:13PM 14 A. CYTOMETRY, WHICH WAS A CERTAIN TYPE OF TEST.  
03:13PM 15 Q. AND DOES THAT CATEGORY OF TESTS HAVE ANYTHING TO DO WITH  
03:13PM 16 THE CBC, COMPLETE BLOOD COUNT, THAT WAS SUPPOSED TO BE RUN  
03:13PM 17 HERE?  
03:13PM 18 MS. WALSH: OBJECTION. LEADING.  
03:13PM 19 THE COURT: OVERRULED.  
03:13PM 20 THE WITNESS: YES.  
03:13PM 21 BY MR. BOSTIC:  
03:13PM 22 Q. DANIEL YOUNG WRITES BACK TO MR. BALWANI. HE SAYS, "RIGHT  
03:13PM 23 NOW, WE ARE NOT PLANNING ON RUNNING ANYTHING ON THE ML,  
03:13PM 24 UNFORTUNATELY. THE GENERAL CHEMISTRY AND ELISA ASSAYS ARE NOT  
03:13PM 25 PERFORMING ADEQUATELY FOR A DEMO AT THE MOMENT."

03:13PM 1 DO YOU SEE THAT?

03:13PM 2 A. YES.

03:13PM 3 Q. AND THEN ABOVE THAT, DO YOU SEE THAT MR. BALWANI FORWARDS

03:13PM 4 THIS TO MS. HOLMES WITH THE COMMENT, "VERY FRUSTRATING"?

03:13PM 5 A. YES.

03:13PM 6 Q. LET'S GO TO TAB 966 NEXT.

03:14PM 7 ONCE YOU'RE THERE, LET ME KNOW WHETHER YOU RECOGNIZE 966

03:14PM 8 AS ANOTHER EMAIL, INTERNAL AT THERANOS, INCLUDING YOU, RELATING

03:14PM 9 TO THE VIP DEMO.

03:14PM 10 A. YES.

03:14PM 11 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 966,

03:14PM 12 AND I'M OFFERING THE EMAIL ONLY, NOT THE ATTACHMENTS.

03:14PM 13 THE WITNESS: I'M SURE, I'M -- I'M NOT SURE IF YOU

03:14PM 14 ASKED WHETHER THE EMAIL WAS FROM ME. I THINK IT'S FROM

03:14PM 15 DANIEL YOUNG HERE.

03:14PM 16 MR. BOSTIC: THANK YOU. I DIDN'T MEAN TO SAY

03:14PM 17 THAT --

03:14PM 18 THE WITNESS: OKAY.

03:14PM 19 BY MR. BOSTIC:

03:14PM 20 Q. -- IF I DID. BUT DOES THIS EMAIL INCLUDE YOU?

03:14PM 21 A. YES.

03:14PM 22 MS. WALSH: NO OBJECTION.

03:14PM 23 THE COURT: JUST THE EMAIL WILL BE ADMITTED, AND IT

03:14PM 24 MAY BE PUBLISHED.

03:14PM 25 (GOVERNMENT'S EXHIBIT 966, EMAIL ONLY, WAS RECEIVED IN

03:14PM 1 EVIDENCE.)

03:14PM 2 MR. BOSTIC: THANK YOU, YOUR HONOR.

03:15PM 3 LET'S ZOOM IN ON THE CONTENT OF THIS EMAIL, SO THE TOP

03:15PM 4 HALF OF PAGE 1.

03:15PM 5 Q. AND DO YOU SEE AN EMAIL FROM DANIEL YOUNG TO YOU,

03:15PM 6 CHRISTIAN HOLMES, ELIZABETH HOLMES, AND SUNNY BALWANI AT

03:15PM 7 THERANOS?

03:15PM 8 A. YES.

03:15PM 9 Q. AND IT ATTACHES WHAT DANIEL YOUNG REFERS TO AS DEMO

03:15PM 10 RESULTS FOR THE SIX SUBJECTS.

03:15PM 11 DO YOU SEE THAT?

03:15PM 12 A. YES.

03:15PM 13 Q. DO YOU RECALL A TIME IN AUGUST OF 2013 WHERE MULTIPLE

03:15PM 14 INDIVIDUALS FROM WALGREENS VISITED THERANOS?

03:15PM 15 A. YES.

03:15PM 16 Q. AND DO YOU KNOW WHETHER AS PART OF THAT VISIT THEY

03:15PM 17 RECEIVED DEMO TESTS OR NOT?

03:15PM 18 A. THEY DID.

03:15PM 19 Q. DANIEL YOUNG WRITES IN HIS EMAIL, LOOKING AT THE SECOND

03:16PM 20 TOPIC THERE -- ACTUALLY, FIRST, LET ME ASK YOU ABOUT ONE

03:16PM 21 QUESTION.

03:16PM 22 IN YOUR BINDER YOU HAVE HARD COPIES OF THE ATTACHMENTS TO

03:16PM 23 THIS EMAIL.

03:16PM 24 DO YOU SEE THAT IN FRONT OF YOU?

03:16PM 25 A. YES.

03:16PM 1 Q. I'LL ASK YOU TO FLIP THROUGH AND SEE IF YOU CAN FIND A  
03:16PM 2 NAME. ACTUALLY LOOK AT PAGE 7 OF THE EXHIBIT.  
03:16PM 3 AND DO YOU SEE THE NAME NIMESH JHAVERI APPEARING ON  
03:16PM 4 PAGE 7?  
03:16PM 5 A. YES.  
03:16PM 6 Q. AND DO YOU RECOGNIZE THAT NAME?  
03:16PM 7 A. YES.  
03:16PM 8 Q. AND WHO WAS NIMESH JHAVERI?  
03:16PM 9 A. HE WORKED AT WALGREENS.  
03:16PM 10 Q. AND GOING BACK TO PAGE 1, OR LOOKING AT THE SCREEN, DO YOU  
03:16PM 11 SEE THAT ONE OF THE ATTACHMENTS SAYS LAB REPORT 8-13-2013 NJ?  
03:16PM 12 A. YES.  
03:16PM 13 Q. IN DANIEL YOUNG'S EMAIL, THE SECOND PARAGRAPH, HE SAYS, "I  
03:17PM 14 'CORRECTED' ASSAY RESULTS THAT I ATTRIBUTED TO BCD COLLECTION  
03:17PM 15 PROBLEMS."  
03:17PM 16 HE SAYS, "THE GC RESULTS LOOK GOOD AFTER SUCH CLEANUP."  
03:17PM 17 DO YOU SEE THAT?  
03:17PM 18 A. YES.  
03:17PM 19 Q. THE QUESTION IS, DO YOU HAVE AN UNDERSTANDING AS TO HOW  
03:17PM 20 DANIEL YOUNG WENT ABOUT, QUOTE, "CORRECTING" THE RESULTS FOR  
03:17PM 21 DEMOS LIKE THIS?  
03:17PM 22 A. I DO NOT.  
03:17PM 23 Q. WERE YOU PART OF THAT PROCESS AT ALL?  
03:17PM 24 A. NO.  
03:17PM 25 Q. LOOKING AT THE FOURTH PARAGRAPH OF HIS EMAIL, HE SAYS,

03:17PM 1 "EACH SUBJECT HAD THE THYROID PANEL PERFORMED. I REMOVED THE  
03:17PM 2 THYROID RESULTS THAT I FELT WERE QUESTIONABLE."  
03:17PM 3 DO YOU SEE THAT?  
03:17PM 4 A. YES.  
03:17PM 5 Q. AND HE SAYS, "THERE ARE A FEW OUT OF RANGE RESULTS LEFT IN  
03:17PM 6 THE REPORT, BUT THEY ARE VERY CLOSE TO THE REFERENCE RANGE."  
03:17PM 7 AND HE SAYS IN PARENTHESSES, "(NOTE THAT I THINK THERE IS  
03:18PM 8 SOMETHING WRONG WITH THE TT3 ASSAY/REAGENTS, AND AM FOLLOWING  
03:18PM 9 UP WITH SHARADA. I REMOVED ALL TT3 RESULTS.)"  
03:18PM 10 DO YOU SEE THAT?  
03:18PM 11 A. YES.  
03:18PM 12 Q. AND THIS WAS IN MID-AUGUST 2013; IS THAT RIGHT?  
03:18PM 13 A. YES.  
03:18PM 14 Q. AND THAT IS ROUGHLY A MONTH BEFORE THERANOS BEGAN PATIENT  
03:18PM 15 TESTING?  
03:18PM 16 A. YES.  
03:18PM 17 Q. OKAY. WE CAN PUT THAT ASIDE.  
03:18PM 18 IF I COULD ASK YOU TO TURN TO TAB 957, PLEASE.  
03:18PM 19 LET ME ASK, ON THE EMAIL THAT WE WERE JUST LOOKING AT WITH  
03:18PM 20 THE RESULTS FROM WALGREENS, WHAT IS YOUR UNDERSTANDING OF WHY  
03:18PM 21 MR. BALWANI WAS INCLUDED ON THAT EMAIL?  
03:18PM 22 LET ME ASK IT A DIFFERENT WAY. WHAT WAS MR. BALWANI'S  
03:18PM 23 ROLE IN CONNECTION WITH THE WALGREENS PARTNERSHIP AT THIS TIME?  
03:18PM 24 A. AT THIS TIME SUNNY OVERSAW THAT RELATIONSHIP WITH  
03:19PM 25 WALGREENS.

03:19PM 1 Q. IN THAT ROLE, WAS HE INVOLVED AT ALL WITH THE MEETINGS AND  
03:19PM 2 VISITS FROM WALGREENS PERSONNEL?  
03:19PM 3 A. YES.  
03:19PM 4 Q. I WOULD JUST ASK YOU TO TURN TO TAB 957.  
03:19PM 5 DO YOU HAVE THAT IN FRONT OF YOU?  
03:19PM 6 A. YES.  
03:19PM 7 Q. AND DO YOU SEE AT 957 ANOTHER EMAIL CHAIN AT THERANOS  
03:19PM 8 RELATING TO DEMO WORKFLOW?  
03:19PM 9 A. YES.  
03:19PM 10 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 957.  
03:19PM 11 MS. WALSH: OBJECTION. HEARSAY.  
03:19PM 12 THE COURT: IS THIS FIVE PAGES, MR. BOSTIC?  
03:19PM 13 MR. BOSTIC: YES, YOUR HONOR.  
03:19PM 14 THE COURT: IS THIS SUBJECT TO A STIPULATION OR IS  
03:20PM 15 THIS 803(6)?  
03:20PM 16 MR. BOSTIC: SO, YOUR HONOR, AS TO AUTHENTICITY,  
03:20PM 17 THIS DOES FALL WITHIN THE PARTIES' STIPULATION AND I'M OFFERING  
03:20PM 18 IT UNDER 803(6). I BELIEVE THAT THIS WITNESS HAS PREVIOUSLY  
03:20PM 19 LAID THE FOUNDATION.  
03:20PM 20 THE COURT: WHY DON'T YOU JUST LAY THE FOUNDATION  
03:20PM 21 BRIEFLY, AND THEN WE'LL GO ON.  
03:20PM 22 BY MR. BOSTIC:  
03:20PM 23 Q. MR. EDLIN, WE TALKED BEFORE ABOUT THE WAY THAT THE EMAIL  
03:20PM 24 WAS USED IN ORDER TO COORDINATE AND COMMUNICATE ABOUT DEMOS; IS  
03:20PM 25 THAT RIGHT?

03:20PM 1 A. YES.

03:20PM 2 Q. AND WAS THE USE OF THE EMAIL IN THAT WAY AN IMPORTANT PART

03:20PM 3 OF HOW THESE DEMOS WERE MONITORED AND ARRANGED AND ORGANIZED AT

03:20PM 4 THERANOS?

03:20PM 5 A. YES.

03:20PM 6 Q. AND TO FULFILL THAT PURPOSE, DID THE EMAILS HAVE TO BE

03:20PM 7 ACCURATE?

03:20PM 8 A. YES.

03:20PM 9 Q. AND WERE THE EMAILS RETAINED SO THAT THEY COULD BE

03:20PM 10 REFERENCED BACK LATER, IF NECESSARY?

03:20PM 11 A. I BELIEVE THEY WERE.

03:20PM 12 MR. BOSTIC: YOUR HONOR, I OFFER THIS EXHIBIT 957

03:20PM 13 UNDER 803(6).

03:20PM 14 MS. WALSH: NO OBJECTION.

03:20PM 15 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:20PM 16 (GOVERNMENT'S EXHIBIT 957 WAS RECEIVED IN EVIDENCE.)

03:21PM 17 BY MR. BOSTIC:

03:21PM 18 Q. AND LET'S START WITH PAGE 2 OF THIS EXHIBIT AND ZOOM IN ON

03:21PM 19 THE MIDDLE OF THE PAGE.

03:21PM 20 MR. EDLIN, DO YOU RECALL THAT WE WERE JUST LOOKING AT AN

03:21PM 21 EMAIL ATTACHING SIX LAB REPORTS FROM A DEMO IN MID-AUGUST 2013?

03:21PM 22 A. YES.

03:21PM 23 Q. AND YOU SEE HERE AN EMAIL FROM YOU MENTIONING, "WE WILL BE

03:21PM 24 COLLECTING FINGERSTICK SAMPLES VERY SOON. PLEASE BE ON

03:21PM 25 STANDBY."

03:21PM 1 A. I DO.

03:21PM 2 Q. AND THEN YOU SAY, "WE HAVE SIX SAMPLES; PLEASE MEET IN THE

03:21PM 3 LAB FOR THE HANDOFF."

03:21PM 4 A. YES.

03:21PM 5 Q. DOES THIS MEAN THAT THE SAMPLES WERE NOT BEING PROCESSED

03:21PM 6 IN A CONFERENCE ROOM?

03:21PM 7 A. YES.

03:21PM 8 Q. CAN YOU EXPLAIN WHAT THAT MEANS THEN? WHERE WERE THEY

03:21PM 9 PROCESSED? WHERE WERE THE TESTS RUN?

03:21PM 10 A. I'M NOT EXACTLY SURE WHERE THEY WERE RUN, BUT IN THIS

03:22PM 11 INSTANCE I MET THE LABORATORY PERSONNEL IN THE R&D LAB, HANDED

03:22PM 12 OFF THE SAMPLES TO THEM, AND THEN THAT WAS THE EXTENT OF MY

03:22PM 13 INVOLVEMENT.

03:22PM 14 Q. LET'S GO TO PAGE 1 OF THIS EXHIBIT AND ZOOM IN ON THE

03:22PM 15 BOTTOM.

03:22PM 16 AND DO YOU SEE AT THE BOTTOM THERE THAT'S AN EMAIL FROM

03:22PM 17 NICHOLAS HAASE?

03:22PM 18 A. YES.

03:22PM 19 Q. AND WHAT WAS HIS POSITION AT THE COMPANY?

03:22PM 20 A. I BELIEVE HE WAS A SCIENTIST.

03:22PM 21 Q. HE SAYS, "UPDATE: WE JUST STARTED THE ADVIA RUN OF ALL

03:22PM 22 SAMPLES."

03:22PM 23 DO YOU SEE THAT?

03:22PM 24 A. I DO.

03:22PM 25 Q. AND WHAT DOES ADVIA REFER TO THERE?

03:22PM 1 A. A THIRD PARTY DEVICE.

03:22PM 2 Q. OKAY. SO THAT'S A BLOOD ANALYZER THAT WASN'T BUILT BY

03:22PM 3 THERANOS?

03:22PM 4 A. CORRECT.

03:22PM 5 Q. DO YOU KNOW WHETHER YOU WERE IN THIS MEETING IN MID-2013

03:23PM 6 WITH THE WALGREENS PERSONNEL?

03:23PM 7 A. I DON'T RECALL WHETHER I WAS IN A PART OF THE MEETING.

03:23PM 8 I KNOW THAT I WAS NOT IN THE ENTIRE MEETING.

03:23PM 9 Q. DO YOU KNOW ONE WAY OR THE OTHER WHETHER THE WALGREENS

03:23PM 10 VIP'S WERE TOLD THAT THEIR SAMPLES WERE BEING RUN NOT ON

03:23PM 11 THERANOS DEVICES, BUT ON THIRD PARTY ANALYZERS?

03:23PM 12 MS. WALSH: OBJECTION. FOUNDATION.

03:23PM 13 THE COURT: OVERRULED.

03:23PM 14 YOU CAN ANSWER THE QUESTION IF YOU KNOW.

03:23PM 15 BY MR. BOSTIC:

03:23PM 16 Q. CAN I REPEAT THAT QUESTION FOR YOU, MR. EDLIN?

03:23PM 17 A. SURE.

03:23PM 18 Q. THE QUESTION WAS, DO YOU KNOW ONE WAY OR THE OTHER WHETHER

03:23PM 19 THE WALGREENS VIP'S WERE TOLD THAT THEIR SAMPLES WERE BEING RUN

03:23PM 20 NOT ON THERANOS DEVICES, BUT ON THIRD PARTY ANALYZERS?

03:23PM 21 A. I DON'T KNOW.

03:23PM 22 Q. LET'S GO TO TAB 1014, PLEASE.

03:24PM 23 AND LOOKING AT TAB 1014, DO YOU SEE ANOTHER INTERNAL EMAIL

03:24PM 24 AT THERANOS RELATING TO A DEMONSTRATION IN AUGUST?

03:24PM 25 A. YES.

03:24PM 1 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1014.

03:24PM 2 MS. WALSH: NO OBJECTION.

03:24PM 3 THE COURT: IT'S ADMITTED. IT MAY BE PUBLISHED.

03:24PM 4 (GOVERNMENT'S EXHIBIT 1014 WAS RECEIVED IN EVIDENCE.)

03:24PM 5 BY MR. BOSTIC:

03:24PM 6 Q. AND LET'S START ON PAGE 4.

03:24PM 7 A. OKAY.

03:24PM 8 Q. MR. EDLIN, DO YOU RECALL AROUND THIS TIME IN AUGUST 2013

03:24PM 9 WORKING ON A DEMONSTRATION FOR A WRITER WITH "THE

03:24PM 10 WALL STREET JOURNAL"?

03:24PM 11 A. YES.

03:24PM 12 Q. DO YOU RECALL THAT WRITER'S NAME?

03:24PM 13 A. JOE RAGO.

03:24PM 14 Q. IN AN EMAIL FROM YOU -- AND LET'S ZOOM IN ON YOUR EMAIL

03:24PM 15 FROM AUGUST 20TH AT 3:51.

03:25PM 16 YOU SAY, "THIS THURSDAY 8/22 WE WILL BE HOSTING A DEMO AT

03:25PM 17 OUR OFFICES. THERE WILL BE ONE MALE PATIENT, ONE FINGERSTICK

03:25PM 18 DRAW, AND TIMING IS TBD."

03:25PM 19 DO YOU SEE THAT?

03:25PM 20 A. YES.

03:25PM 21 Q. YOU SAY, "PLANNED TESTS WILL CONSIST OF SOME COMBINATION

03:25PM 22 OF THE FOLLOWING: CBC, CHEM 14, LIPIDS, THYROID PANEL OR MALE

03:25PM 23 HEALTH."

03:25PM 24 IS THAT RIGHT?

03:25PM 25 A. YES.

03:25PM 1 Q. AND THEN YOU SAY, "FOR THIS DEMO, WE WILL NEED TO TURN  
03:25PM 2 AROUND RESULTS FASTER THAN EVER BEFORE -- IDEALLY IN 1 HOUR AND  
03:25PM 3 NO LONGER THAN 2 HOURS.  
03:25PM 4 DO YOU SEE THAT?  
03:25PM 5 A. YES.  
03:25PM 6 Q. AND DO YOU KNOW WHY THIS DEMO NEEDED TO BE COMPLETED,  
03:25PM 7 QUOTE, "FASTER THAN EVER BEFORE"?  
03:25PM 8 A. WELL, TYPICALLY FOR DEMOS THE RESULT WOULD BE RETURNED BY  
03:25PM 9 THE END OF THE BUSINESS DAY.  
03:25PM 10 IN THIS SCENARIO, ELIZABETH WANTED THE RESULTS TO BE  
03:26PM 11 RETURNED BEFORE THE END OF THE MEETING, AND FROM THE POINT OF  
03:26PM 12 THIS DEMO, THE MEETING WOULD HAVE ENDED AFTER ONE OR TWO HOURS  
03:26PM 13 AFTER THE SAMPLE IS TAKEN.  
03:26PM 14 Q. AND THIS KIND OF SPEED, THIS KIND OF TURN-AROUND TIME ON A  
03:26PM 15 DEMO IS SOMETHING THAT THERANOS HADN'T DONE BEFORE; IS THAT  
03:26PM 16 RIGHT?  
03:26PM 17 MS. WALSH: OBJECTION. LEADING.  
03:26PM 18 THE COURT: SUSTAINED.  
03:26PM 19 BY MR. BOSTIC:  
03:26PM 20 Q. LOOKING AT YOUR EMAIL WHERE YOU SAY, "WE WILL NEED TO TURN  
03:26PM 21 AROUND RESULTS FASTER THAN EVER BEFORE," HAD THERANOS  
03:26PM 22 PREVIOUSLY BEEN CAPABLE OF TURNING AROUND DEMO RESULTS IN THIS  
03:26PM 23 KIND OF TIME PERIOD?  
03:26PM 24 A. I THINK THE COMPANY WAS CAPABLE OF IT, BUT IT HAD NOT DONE  
03:26PM 25 THAT.

03:26PM 1 Q. LOOKING AT YOUR EMAIL FURTHER DOWN, YOU SAY, "SAM AND  
03:26PM 2 MICHAEL -- SIMILAR TO LAST WEEK, PLEASE SET UP TWO MINILABS,  
03:27PM 3 ONE 4S, AND ONE 3.5 IN INTERVIEW ROOM NUMBER 1."  
03:27PM 4 DO YOU SEE THAT?  
03:27PM 5 A. YES.  
03:27PM 6 Q. ARE ALL OF THOSE DEVICES THERANOS BUILT DEVICES?  
03:27PM 7 A. YES.  
03:27PM 8 Q. AND YOU SAY, "THE MINILABS, 4S, AND 3.5 SHOULD HAVE THE  
03:27PM 9 DEMO APP THAT CAN RUN NULL PROTOCOLS."  
03:27PM 10 DO YOU SEE THAT?  
03:27PM 11 A. YES.  
03:27PM 12 Q. LET'S GO TO PAGE 2.  
03:27PM 13 DO YOU SEE AT THE BOTTOM OF PAGE 2 THAT YOU WERE HEADING  
03:27PM 14 IN, ACCORDING TO YOUR EMAIL, TO COLLECT THE FINGERSTICK SAMPLE?  
03:27PM 15 A. YES.  
03:27PM 16 Q. LET'S LOOK AT THE TOP OF PAGE 2.  
03:27PM 17 AND DO YOU SEE THERE AN EMAIL FROM YOU TO MR. BALWANI?  
03:27PM 18 A. YES.  
03:27PM 19 Q. AND YOU SAY, "UNFORTUNATELY BY THE LOOKS OF THE THYROID  
03:28PM 20 PANEL RESULTS BELOW IT APPEARS TO HAVE HAD MAJOR ISSUES AGAIN."  
03:28PM 21 DO YOU SEE THAT?  
03:28PM 22 A. YES.  
03:28PM 23 Q. A COUPLE OF QUESTIONS THERE. FIRST OF ALL, YOU SAY "IT  
03:28PM 24 APPEARS TO HAVE HAD MAJOR ISSUES AGAIN."  
03:28PM 25 WAS THIS NOT THE FIRST TIME THAT YOU WERE AWARE OF THE

03:28PM 1 THYROID PANEL HAVING PROBLEMS?

03:28PM 2 A. THAT'S RIGHT.

03:28PM 3 Q. WHAT DO YOU REMEMBER ABOUT PROBLEMS WITH THAT PARTICULAR

03:28PM 4 ASSAY?

03:28PM 5 A. I REMEMBER THAT THE RESULTS FROM TESTS ON THAT ASSAY WERE

03:28PM 6 NOT VIABLE.

03:28PM 7 Q. AND WAS THIS IN THE CONTEXT OF DEMO TESTING OR OTHER R&D

03:28PM 8 WORK? WHERE DID THAT UNDERSTANDING COME FROM?

03:28PM 9 A. I DON'T REMEMBER SPECIFICALLY, BUT I THINK IT WAS IN

03:28PM 10 CONNECTION WITH A DEMO, OTHERWISE -- AND I SAY THAT BECAUSE

03:28PM 11 THAT WAS MY INVOLVEMENT. SO IT'S POSSIBLE THAT THERE WERE

03:29PM 12 PRACTICE TESTS DONE AT SOME EARLIER POINT.

03:29PM 13 Q. IF YOU LOOK AT THE BOTTOM OF PAGE 1, YOU SEE THE HEADER

03:29PM 14 INFORMATION FOR THE EMAIL THAT WE'RE LOOKING AT.

03:29PM 15 AND YOU SEND THIS EMAIL JUST TO SUNNY BALWANI; IS THAT

03:29PM 16 RIGHT?

03:29PM 17 A. YES.

03:29PM 18 Q. WHY DID YOU SEND THIS EMAIL DIRECTLY TO MR. BALWANI? WHY

03:29PM 19 HIM?

03:29PM 20 A. I DON'T REMEMBER EXACTLY.

03:29PM 21 Q. WHAT ROLE DID MR. BALWANI HAVE GENERALLY WHEN IT CAME TO

03:29PM 22 DEMOS LIKE THIS ONE?

03:29PM 23 A. OFTEN SUNNY WAS KEPT IN THE LOOP IF A DEMO WAS FOR A GUEST

03:29PM 24 OR A GROUP OF PEOPLE THAT WOULD HAVE BEEN, YOU KNOW, RELEVANT

03:29PM 25 TO HIM OR THAT HE WAS INTERESTED IN KNOWING ABOUT.

03:30PM 1 Q. OKAY. GOING BACK TO YOUR EMAIL AT THE TOP OF PAGE 2.

03:30PM 2 A. YES.

03:30PM 3 Q. YOU SAY, "THE THYROID PANEL APPEARS TO HAVE HAD MAJOR

03:30PM 4 ISSUES AGAIN."

03:30PM 5 YOU GO ON TO SAY, "THIS IS AFTER CALIBRATION WAS RE-DONE

03:30PM 6 YESTERDAY, AFTER A CLINICAL CORRECTION WAS PUT IN PLACE FOR

03:30PM 7 TT3, AND AFTER DANIEL REVIEWED RECENT DATA AND SAID HE WAS

03:30PM 8 CONFIDENT THAT AT LEAST 5 OF THESE RESULTS WOULD WORK."

03:30PM 9 DO YOU SEE THAT?

03:30PM 10 A. YES.

03:30PM 11 Q. LET'S GO TO PAGE 1 AND LOOK AT MR. BALWANI'S REACTION.

03:30PM 12 A. OKAY.

03:30PM 13 Q. AND DO YOU SEE THE EMAIL FROM HIM WHERE HE SAYS, "TO SAY

03:30PM 14 THIS IS DEEPLY DISAPPOINTING WILL BE A GROSS UNDERSTATEMENT"?

03:30PM 15 A. I DO.

03:30PM 16 Q. HE SAYS, "WE HAVE BEEN ASKING TO GET THIS CARTRIDGE BUILT

03:30PM 17 AND QAED AND TESTED FOR MONTHS NOW AND EVERY SINGLE RUN WE HAVE

03:31PM 18 HAD ON THYROID PANEL HAS BEEN A DISASTER."

03:31PM 19 DO YOU SEE THAT?

03:31PM 20 A. YES.

03:31PM 21 Q. AND THIS IS ABOUT ONE WEEK BEFORE THE END OF AUGUST; IS

03:31PM 22 THAT RIGHT?

03:31PM 23 A. YES.

03:31PM 24 Q. AND ONE MONTH BEFORE THERANOS BEGAN PATIENT TESTING?

03:31PM 25 A. YES.

03:31PM 1 Q. LET'S LOOK AT THE EMAIL ABOVE THAT FROM  
03:31PM 2 SUREKHA GANGADKHEDKAR.  
03:31PM 3 DO YOU SEE HERE ANOTHER REPORT SENT DIRECTLY TO  
03:31PM 4 MR. BALWANI, INCLUDING YOU AND DANIEL YOUNG, REGARDING THESE  
03:31PM 5 RESULTS?  
03:31PM 6 A. YES.  
03:31PM 7 Q. AND SUREKHA GANGADKHEDKAR SAYS, "WITH THE PRESENT RUN,  
03:31PM 8 HERE IS THE BREAK-UP OF THE RESULTS," AND THEN SHE PROVIDES A  
03:31PM 9 NUMBERED LIST.  
03:31PM 10 A. YES.  
03:31PM 11 Q. SHE NOTES NUMBER 2, THERE'S AN ASSAY THAT WAS OORL DUE TO  
03:31PM 12 SUBSTRATE EVAPORATION.  
03:31PM 13 DO YOU KNOW WHAT OORL STOOD FOR AT THERANOS?  
03:31PM 14 A. OUT OF RANGE LOW.  
03:31PM 15 Q. UNDER NUMBER 4 FOR THE TT3 ASSAY, SHE NOTES THAT THAT WAS  
03:32PM 16 ALSO WAS OUT OF RANGE LOW; IS THAT CORRECT?  
03:32PM 17 A. YES.  
03:32PM 18 Q. AND SHE SAYS AT THE BOTTOM THAT "THIS POINTS TO  
03:32PM 19 CARRY-OVER/CONTAMINATION DURING THE RUN AND NOT RELATED TO  
03:32PM 20 ASSAY ISSUES."  
03:32PM 21 DO YOU SEE THAT?  
03:32PM 22 A. YES.  
03:32PM 23 Q. AND THEN FOR NUMBER 6 SHE SAYS "FT-4 -- RESULT REPORTED,  
03:32PM 24 HIGH."  
03:32PM 25 DO YOU SEE THAT?

03:32PM 1 A. YES.

03:32PM 2 Q. AND SHE SAYS, "SINCE WE DO NOT HAVE SAMPLE TO TEST ON THE

03:32PM 3 REFERENCE METHOD, NOT POSSIBLE TO MAKE A CONCLUSION ON THE HIGH

03:32PM 4 RESULTS."

03:32PM 5 DID I READ THAT CORRECTLY?

03:32PM 6 A. YES.

03:32PM 7 Q. AND FINALLY AT THE TOP OF THIS PAGE, DO YOU SEE THAT

03:32PM 8 MR. BALWANI TOOK THE STEP TO FORWARD THAT INFORMATION TO

03:32PM 9 MS. HOLMES?

03:32PM 10 A. I DO.

03:32PM 11 Q. LET'S LOOK AT 1157 NEXT.

03:33PM 12 AND AT 1157, DO YOU SEE AN EMAIL FROM YOU TO OTHERS AT

03:33PM 13 THERANOS RELATING TO A DEMO THE FOLLOWING DAY?

03:33PM 14 A. YES.

03:33PM 15 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 1157.

03:33PM 16 MS. WALSH: IF IT'S 803(6), I HAVE NO OBJECTION,

03:33PM 17 YOUR HONOR.

03:33PM 18 MR. BOSTIC: IT IS.

03:33PM 19 THE COURT: IT'S ADMITTED, AND IT MAY BE PUBLISHED.

03:33PM 20 (GOVERNMENT'S EXHIBIT 1157 WAS RECEIVED IN EVIDENCE.)

03:33PM 21 BY MR. BOSTIC:

03:33PM 22 Q. AND LET'S ZOOM IN ON THE TOP HALF OF PAGE 1.

03:33PM 23 MR. EDLIN, DO YOU SEE THAT THIS RELATES TO A DEMO THAT WAS

03:33PM 24 GOING TO HAPPEN APPARENTLY ON SEPTEMBER 24TH, 2013?

03:33PM 25 A. YES.

03:33PM 1 Q. AT THIS POINT HAD THERANOS BEGUN PATIENT TESTING YET?

03:33PM 2 A. YES.

03:33PM 3 Q. IN THIS EMAIL, PAUL PATEL WRITES, "DANIEL,

03:33PM 4 "ARE WE EXPECTING TO RUN THIS SAMPLE ON ADVIA?"

03:34PM 5 DO YOU SEE THAT QUESTION?

03:34PM 6 A. YES.

03:34PM 7 Q. AND ON THE TOP WE SEE YOUR EMAIL RESPONSE.

03:34PM 8 YOU SAY, "PLEASE PLAN ON RUNNING THIS SAMPLE USING THE

03:34PM 9 SAME PROCESSES AS LAST WEEK, IE, THE CURRENT WORKFLOW IN

03:34PM 10 NORMANDY."

03:34PM 11 WHAT DOES THAT MEAN, "THE CURRENT WORKFLOW IN NORMANDY"?

03:34PM 12 A. I THINK THAT REFERS TO HOW THE NORMANDY LAB OPERATED.

03:34PM 13 Q. OKAY. WAS THAT THE LAB RUNNING PATIENT TESTS?

03:34PM 14 A. I'M NOT SURE.

03:34PM 15 Q. YOU GO ON TO SAY IN THAT EMAIL, "TO ANSWER PAUL'S

03:34PM 16 QUESTION, I BELIEVE THAT ADVIA IS USED FOR THIS FOR GC ASSAYS."

03:34PM 17 DO YOU SEE THAT?

03:34PM 18 A. I DO.

03:34PM 19 Q. AND DID YOU TESTIFY EARLIER THAT ADVIA WAS A NON-THERANOS

03:34PM 20 THIRD PARTY DEVICE?

03:34PM 21 A. YES, AND AT THIS POINT I WAS LIKELY PASSING INFORMATION

03:34PM 22 FROM DANIEL YOUNG TO PAUL.

03:35PM 23 Q. LET'S GO BACK, JUST BRIEFLY, TO PAGE 2 AND ZOOM IN ON THE

03:35PM 24 BOTTOM HALF.

03:35PM 25 AND WE SEE HERE AN EMAIL FROM YOU, AGAIN, RELATING TO

03:35PM 1 COORDINATION OF THIS DEMO?

03:35PM 2 A. YES.

03:35PM 3 Q. AND AT THE BOTTOM YOU SAY, "SAM AND MICHAEL -- WE WILL

03:35PM 4 ALSO NEED TO SET UP MINILABS AND A 4S IN INTERVIEW ROOM NUMBER

03:35PM 5 1."

03:35PM 6 DO YOU SEE THAT?

03:35PM 7 A. YES.

03:35PM 8 Q. AND WAS EITHER THE MINILAB OR THE 4S PART OF THE WORKFLOW

03:35PM 9 IN THE THERANOS CLINICAL LAB?

03:35PM 10 A. NOT TO MY KNOWLEDGE.

03:35PM 11 Q. ALL RIGHT. SO, IN OTHER WORDS, IS THIS A SITUATION WHERE

03:35PM 12 THE NEXT GENERATION DEVICES WERE SET UP IN A CONFERENCE ROOM

03:35PM 13 WHERE THE MEETING WAS HELD, BUT THOSE DEVICES WERE NEVER USED

03:35PM 14 FOR CLINICAL PATIENT TESTING?

03:36PM 15 MS. WALSH: OBJECTION. LEADING.

03:36PM 16 THE COURT: IT WAS LEADING. I'LL ALLOW IT.

03:36PM 17 YOU CAN ANSWER THE QUESTION.

03:36PM 18 THE WITNESS: CAN YOU REPEAT THE QUESTION, PLEASE?

03:36PM 19 MR. BOSTIC: SURE.

03:36PM 20 Q. ARE WE LOOKING AT A SITUATION WHERE NEXT GENERATION

03:36PM 21 DEVICES, NOT USED FOR CLINICAL PATIENT TESTING, WERE SET UP IN

03:36PM 22 THE ACTUAL CONFERENCE ROOM?

03:36PM 23 A. YES.

03:36PM 24 Q. OKAY. FINALLY, LET'S LOOK AT TAB 3070, 3070.

03:36PM 25 AND DO YOU SEE HERE AN EMAIL CHAIN INCLUDING YOU,

03:36PM 1 MS. HOLMES, AND MR. BALWANI RELATING TO A TEST FOR A VIP GUEST?

03:36PM 2 A. YES.

03:36PM 3 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 3070,

03:37PM 4 AND WE'RE GOING TO REDACT THE PATIENT NAME.

03:37PM 5 MS. WALSH: NO OBJECTION.

03:37PM 6 THE COURT: IT'S ADMITTED. SUBJECT TO REDACTION, IT

03:37PM 7 MAY BE PUBLISHED.

03:37PM 8 (GOVERNMENT'S EXHIBIT 3070 WAS RECEIVED IN EVIDENCE.)

03:37PM 9 BY MR. BOSTIC:

03:37PM 10 Q. AND LET'S GO FIRST TO THE BOTTOM OF PAGE 1, AND WE SEE

03:37PM 11 THAT WE'RE ABOUT TO LOOK AT AN EMAIL FROM YOU, MR. EDLIN, ON

03:37PM 12 DECEMBER 27TH, 2015; IS THAT CORRECT?

03:37PM 13 A. YES.

03:37PM 14 Q. SO YEARS AFTER THERANOS HAD BEGUN PATIENT TESTING?

03:37PM 15 A. OVER TWO YEARS, YES.

03:37PM 16 Q. AND LET'S TURN THE PAGE. THE SUBJECT LINE SAYS MESSAGING

03:37PM 17 FOR VIP GUESTS.

03:37PM 18 AND LOOKING AT THE CONTENT OF THE EMAIL, LET'S ZOOM IN ON

03:37PM 19 THE TOP. IT SAYS -- YOU WRITE, "YESTERDAY WE SENT DR.," AND

03:37PM 20 WE'VE REDACTED THE NAME, "HIS RESULTS FROM THE STUDY IN WHICH

03:37PM 21 WE COMPARE FINGERSTICK CTN RESULTS TO VENOUS RESULTS RUN AT

03:37PM 22 THERANOS, ARUP, AND UCSF."

03:38PM 23 DO YOU SEE THAT?

03:38PM 24 A. YES.

03:38PM 25 Q. YOU THEN SAY, "WE WERE UNABLE TO RETURN 5 TEST RESULTS FOR

03:38PM 1 THE CTN FOR THE FOLLOWING REASONS."

03:38PM 2 WHAT WAS THE CTN?

03:38PM 3 A. IT STANDS FOR CAPILLARY TUBE AND NANOTAINER, AND IT WAS A

03:38PM 4 THERANOS MANUFACTURED DEVICE THAT COLLECTED A BLOOD SAMPLE FROM

03:38PM 5 A FINGERSTICK.

03:38PM 6 Q. AND WAS THE CTN USED WITH THERANOS SPECIFIC TESTS OR WAS

03:38PM 7 IT ALSO USED WITH REGULAR COMMERCIALLY AVAILABLE TESTS, IF YOU

03:38PM 8 KNOW?

03:38PM 9 A. I BELIEVE IT WAS RUN IN CONNECTION TO THERANOS SPECIFIC

03:38PM 10 TESTS.

03:38PM 11 Q. OKAY. SO YOU'RE WRITING THAT THE LAB WAS UNABLE TO RETURN

03:38PM 12 FIVE TEST RESULTS FOR THE THERANOS METHODS FOR THE FOLLOWING

03:38PM 13 REASONS.

03:38PM 14 UNDER NUMBER 1, POTASSIUM, CHLORIDE, AND SODIUM?

03:38PM 15 A. YES.

03:38PM 16 Q. YOU WRITE, "SAMPLE BECAME CONTAMINATED DURING

03:39PM 17 CENTRIFUGATION."

03:39PM 18 DO YOU SEE THAT?

03:39PM 19 A. YES.

03:39PM 20 Q. UNDER PART B THERE FOR THOSE SAME ASSAYS UNDER ROOT CAUSE,

03:39PM 21 YOU WRITE, "THE CONTAMINATION OF THE CTN IS NOT DUE TO ANY

03:39PM 22 HUMAN ERROR."

03:39PM 23 DO YOU SEE THAT?

03:39PM 24 A. YES, AND IN THIS CASE I WAS RELAYING INFORMATION DIRECTLY

03:39PM 25 FROM TINA.

03:39PM 1 Q. AND YOUR UNDERSTANDING AGAIN, APPARENTLY FROM TINA, WAS  
03:39PM 2 THAT, QUOTE, "WE DON'T KNOW HOW OR WHY THIS HAPPENED"; IS THAT  
03:39PM 3 RIGHT?  
03:39PM 4 A. YES.  
03:39PM 5 Q. AND THEN GOING DOWN TO ITEM 2 IN THE LIST FOR CALCIUM AND  
03:39PM 6 TOTAL PROTEIN?  
03:39PM 7 A. YES.  
03:39PM 8 Q. YOU WRITE, "THESE TWO RESULTS WERE STATISTICALLY  
03:39PM 9 SIGNIFICANTLY TOO HIGH RELATIVE TO THE VENOUS REPORT."  
03:39PM 10 DO YOU SEE THAT?  
03:39PM 11 A. YES.  
03:39PM 12 Q. CAN YOU EXPLAIN WHAT THAT MEANS? WHAT WAS BEING COMPARED  
03:39PM 13 IN THIS CASE?  
03:39PM 14 A. IN THIS CASE RESULTS FROM A FINGERSTICK WERE BEING  
03:39PM 15 COMPARED TO RESULTS FROM A VENIPUNCTURE.  
03:40PM 16 Q. OKAY. AND UNDER B WHERE IT SAYS ROOT CAUSE, YOU WRITE,  
03:40PM 17 "UNKNOWN."  
03:40PM 18 DO YOU SEE THAT?  
03:40PM 19 A. YES. AND, AGAIN, IN THIS CASE I WAS PASSING ALONG  
03:40PM 20 INFORMATION FROM A SCIENTIST.  
03:40PM 21 Q. OKAY. LET'S LOOK AT PAGE 1 TO GET SOME MORE DETAILS ABOUT  
03:40PM 22 WHO THIS DONOR WAS, WHO THIS SUBJECT WAS.  
03:40PM 23 ZOOM IN ON THE BOTTOM HALF OF THE PAGE.  
03:40PM 24 AND DO YOU SEE AN EMAIL FROM CHRISTIAN HOLMES TO HIS  
03:40PM 25 SISTER, ELIZABETH HOLMES, AND SUNNY BALWANI?

03:40PM 1 A. YES.

03:40PM 2 Q. AND HE SAYS, "FYI -- THIS IS THE DOC EAH MET AT FORBES

03:40PM 3 CONFERENCE AND INVITED TO DO COMPARISON."

03:40PM 4 DO YOU SEE THAT?

03:40PM 5 A. YES.

03:40PM 6 Q. AND CHRISTIAN HOLMES WRITES, "HE WAS VERY PLEASANT IN

03:40PM 7 PERSON BUT NOTED HE INTENDS TO WRITE ABOUT HIS EXPERIENCE AND

03:40PM 8 RESULTS."

03:40PM 9 DO YOU SEE THAT?

03:40PM 10 A. YES.

03:40PM 11 Q. LOOKING AT THAT EMAIL, YOU ARE NOT INCLUDED ON THAT

03:40PM 12 PARTICULAR EMAIL MESSAGE; IS THAT CORRECT?

03:40PM 13 A. THAT'S CORRECT.

03:40PM 14 Q. AND GOING UP TO THE MESSAGE ABOVE THAT, WE SEE A RESPONSE

03:41PM 15 FROM MS. HOLMES.

03:41PM 16 A. YES.

03:41PM 17 Q. AND THAT ONE DOES INCLUDE YOU; CORRECT?

03:41PM 18 A. YES.

03:41PM 19 Q. AND SHE WRITES, "YOU CAN SAY WE DO RUN THOSE ASSAYS, BUT

03:41PM 20 WERE NOT ABLE TO RUN THEM ON THIS SAMPLE, APPARENTLY DUE TO A

03:41PM 21 HUMAN ERROR IN SAMPLE HANDLING."

03:41PM 22 DO YOU SEE THAT?

03:41PM 23 A. YES.

03:41PM 24 Q. MS. HOLMES IS SAYING TO TELL THE DOCTOR THAT THE ASSAYS

03:41PM 25 COULD NOT BE RUN ON THE SAMPLE; IS THAT CORRECT?

03:41PM 1 A. YES.

03:41PM 2 Q. IN FACT, WEREN'T THE ASSAYS RUN ON THIS SAMPLE?

03:41PM 3 A. YES.

03:41PM 4 Q. SHE ALSO SAYS TO TELL THE DOCTOR THAT THE PROBLEM WAS,

03:41PM 5 QUOTE, "DUE TO A HUMAN ERROR IN SAMPLE HANDLING."

03:41PM 6 DO YOU SEE THAT?

03:41PM 7 A. YES.

03:41PM 8 Q. HADN'T YOU JUST REPORTED THAT YOUR UNDERSTANDING FROM TINA

03:41PM 9 WAS THAT THE CONTAMINATION WAS NOT DUE TO ANY HUMAN ERROR?

03:41PM 10 A. THAT WAS HER UNDERSTANDING, YES.

03:42PM 11 Q. AND WHEN YOU SAY "HER UNDERSTANDING," DO YOU MEAN TINA'S

03:42PM 12 UNDERSTANDING?

03:42PM 13 A. I DO.

03:42PM 14 Q. AT THE TIME, IN DECEMBER OF 2015, DID YOU NOTE THE

03:42PM 15 INCONSISTENCY BETWEEN WHAT MS. HOLMES WAS SAYING SHOULD BE

03:42PM 16 REPRESENTED AND WHAT WAS BEING DISCUSSED INTERNALLY?

03:42PM 17 A. I'M NOT SURE WHAT YOU MEAN.

03:42PM 18 Q. SITTING HERE TODAY, DO YOU SEE THE INCONSISTENCY BETWEEN

03:42PM 19 WHAT MS. HOLMES IS SAYING SHOULD BE SAID TO THE DOCTOR AND WHAT

03:42PM 20 ACTUALLY HAPPENED AT THERANOS?

03:42PM 21 A. I DO.

03:42PM 22 MS. WALSH: OBJECTION. RELEVANCE.

03:42PM 23 THE COURT: OVERRULED.

03:42PM 24 THE WITNESS: I DO NOTE THE INCONSISTENCY, YES.

03:42PM 25 BY MR. BOSTIC:

03:42PM 1 Q. SO MY QUESTION IS, AT THE TIME IN DECEMBER OF 2015, DID  
03:42PM 2 YOU NOTICE THAT INCONSISTENCY?  
03:42PM 3 A. I'M NOT SURE WHETHER -- I DON'T REMEMBER.  
03:43PM 4 Q. OKAY. WE CAN PUT THAT ASIDE.  
03:43PM 5 I'D LIKE TO MOVE ON, IN OUR REMAINING TIME TODAY, TO A  
03:43PM 6 DIFFERENT TOPIC AND TALK ABOUT YOUR INVOLVEMENT IN THE  
03:43PM 7 MARKETING OF THERANOS AND SOME MEDIA RELATIONS INVOLVING THE  
03:43PM 8 COMPANY. OKAY?  
03:43PM 9 A. OKAY.  
03:43PM 10 Q. FIRST, LET'S START WITH THE THERANOS WEBSITE.  
03:43PM 11 DO YOU RECALL A TIME WHEN THERANOS WAS PREPARING TO LAUNCH  
03:43PM 12 A NEW VERSION OF ITS PUBLIC WEBSITE?  
03:43PM 13 A. YES.  
03:43PM 14 Q. AND WHEN DID THAT TAKE PLACE?  
03:43PM 15 A. IT TOOK PLACE IN 2013 LEADING UP TO THE LAUNCH WITH  
03:43PM 16 WALGREENS.  
03:43PM 17 Q. DO YOU KNOW APPROXIMATELY WHAT MONTH THAT WOULD HAVE BEEN  
03:43PM 18 THEN, OR MONTHS THAT WE WOULD BE TALKING ABOUT?  
03:43PM 19 A. IT WAS LIKELY IN THE SUMMER OF 2013.  
03:43PM 20 Q. AND AROUND THAT TIME, DID YOU HAVE A ROLE IN ASSISTING  
03:43PM 21 WITH THE CONTENT OF THE THERANOS WEBSITE?  
03:43PM 22 A. YES.  
03:43PM 23 Q. AND WHAT WAS YOUR ROLE?  
03:43PM 24 A. MY ROLE WAS TO WORK DIRECTLY WITH THE ACCOUNT MANAGERS AND  
03:44PM 25 ACCOUNT SUPERVISORS AT TBWACHIAT/DAY TO TRACK DELIVERABLES,

03:44PM 1 FACILITATE INFORMATION AND COMMUNICATION.

03:44PM 2 Q. AND YOU MENTIONED TBWACHIAT/DAY?

03:44PM 3 A. YES.

03:44PM 4 Q. AND WHAT IS THAT?

03:44PM 5 A. THAT'S A MARKETING AND ADVERTISING AGENCY.

03:44PM 6 Q. AND WHAT WAS ITS RELATIONSHIP TO THERANOS BACK IN 2013?

03:44PM 7 A. THEY WERE THE AGENCY OR VENDOR THAT THERANOS WAS

03:44PM 8 PARTNERING WITH TO DEVELOP A MARKETING COMMUNICATIONS -- A

03:44PM 9 MARKETING AND COMMUNICATIONS STRATEGY WHICH INCLUDED THE

03:44PM 10 WEBSITE REDESIGN.

03:44PM 11 Q. AND WHEN IT CAME TO THE REDESIGN OF THE WEBSITE, WERE

03:44PM 12 MS. HOLMES AND MR. BALWANI INVOLVED AS CEO AND COO OF THE

03:44PM 13 COMPANY?

03:44PM 14 A. YES.

03:44PM 15 Q. AND IN WHAT WAY WERE THEY INVOLVED?

03:44PM 16 A. THE COMPANY HAD SEVERAL MEETINGS WITH A NUMBER OF

03:45PM 17 DIFFERENT EMPLOYEES AT CHIAT/DAY, AND ELIZABETH AND SUNNY I

03:45PM 18 THINK SPOKE WITH THEM TO ESTABLISH THE TERMS OF THE

03:45PM 19 RELATIONSHIP AND THE SCOPE OF THAT RELATIONSHIP, AND ALSO TO

03:45PM 20 PROVIDE INFORMATION ABOUT THE DIRECTION OF THE COMPANY AND THE

03:45PM 21 STRATEGY AND WHAT THEY WERE HOPING TO ACHIEVE THROUGH A

03:45PM 22 MARKETING EFFORT.

03:45PM 23 Q. I'LL ASK YOU TO LOOK IN YOUR BINDER AT TAB 3965, PLEASE.

03:45PM 24 AND DO YOU HAVE THAT IN FRONT OF YOU?

03:45PM 25 A. I DO.

03:45PM 1 Q. AT 3965, DO YOU SEE AN EMAIL INCLUDING YOU, MR. BALWANI,  
03:45PM 2 AND MS. HOLMES RELATING TO WEBSITE CONTENT?  
03:45PM 3 A. YES.  
03:45PM 4 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 3965.  
03:45PM 5 MS. WALSH: YOUR HONOR, WE OBJECT BASED ON HEARSAY.  
03:46PM 6 THERE ARE MULTIPLE LAYERS OF HEARSAY IN THIS EMAIL.  
03:46PM 7 THE COURT: MR. BOSTIC, ARE YOU SEEKING TO INTRODUCE  
03:46PM 8 THE ENTIRETY? IT LOOKS LIKE THERE'S A BROCHURE OR SOMETHING.  
03:46PM 9 MR. BOSTIC: YES, YOUR HONOR, BUT NOT FOR ITS TRUTH.  
03:46PM 10 THIS IS NOT FOR HEARSAY. THIS IS TO SHOW WHAT WAS BEING  
03:46PM 11 CONSIDERED AS CONTENT FOR THE WEBSITE AT THE TIME.  
03:46PM 12 IT'S ALSO RELEVANT TO NOTICE TO MS. HOLMES AND MR. BALWANI  
03:46PM 13 ABOUT THAT CONTENT AND ISSUES WITH THE CONTENT.  
03:47PM 14 (PAUSE IN PROCEEDINGS.)  
03:47PM 15 THE COURT: ALL RIGHT. THANK YOU.  
03:47PM 16 I'LL ADMIT THIS ONLY FOR THE ISSUE OF NOTICE.  
03:47PM 17 LADIES AND GENTLEMEN, THIS IS NOT OFFERED FOR THE TRUTH OF  
03:47PM 18 THE MATTER ASSERTED. IT'S NOT BEING ADMITTED FOR THE TRUTH OF  
03:47PM 19 ANYTHING ASSERTED IN THESE DOCUMENTS AT ALL, BUT RATHER JUST  
03:47PM 20 FOR THE NOTICE OF THE INFORMATION, BUT NOT FOR THE TRUTH.  
03:47PM 21 AND IT CAN BE ADMITTED FOR THAT LIMITED PURPOSE AND  
03:47PM 22 PUBLISHED.  
03:47PM 23 MR. BOSTIC: THANK YOU, YOUR HONOR.  
03:47PM 24 (GOVERNMENT'S EXHIBIT 3965 WAS RECEIVED IN EVIDENCE.)  
03:47PM 25 MR. BOSTIC: MS. WACHS, IF WE CAN ZOOM IN ON THE

03:47PM 1 HEADER INFORMATION FIRST.

03:47PM 2 Q. AND DO YOU SEE HERE AN EMAIL FROM SOMEONE NAMED

03:47PM 3 JEFFREY BLICKMAN TO MS. HOLMES, CC'ING MR. BALWANI,

03:47PM 4 CHRISTIAN HOLMES, AND YOU?

03:47PM 5 A. YES.

03:47PM 6 Q. WHO WAS JEFF BLICKMAN AT THERANOS?

03:47PM 7 A. JEFF BLICKMAN WAS A SENIOR PRODUCT MANAGER THAT I WORKED

03:47PM 8 WITH.

03:47PM 9 Q. THE SUBJECT LINE HERE IS .COM PDF AND JIM FOX'S COMMENTS.

03:47PM 10 DO YOU SEE THAT?

03:48PM 11 A. YES.

03:48PM 12 Q. AND LET'S LOOK AT THE CONTENT OF THE EMAIL. JUST ZOOM IN

03:48PM 13 ON THE TOP HALF OF THAT FOR NOW.

03:48PM 14 AND MR. BLICKMAN WRITES, "ELIZABETH -- HERE'S THE PDF

03:48PM 15 SCREENSHOTS OF THE LATEST .COM TO SEND TO COUNSEL."

03:48PM 16 WAS THIS CONTENT FOR THE WEBSITE?

03:48PM 17 A. YES.

03:48PM 18 Q. HE SAYS, "ALONG WITH JIM'S (ABRIDGED) FEEDBACK FROM TODAY,

03:48PM 19 REMOVED ANYTHING BASED ON PERSONAL OPINION."

03:48PM 20 DO YOU SEE THAT?

03:48PM 21 A. YES.

03:48PM 22 Q. AND I'D LIKE TO DRAW YOUR ATTENTION TO THE FIRST TWO ITEMS

03:48PM 23 ON THIS LIST. THE FIRST ONE SAYS, "WHAT IS THE SOURCE/BACKUP

03:48PM 24 DATA FOR 'AT THERANOS WE CAN PERFORM ALL LAB TESTS ON A SAMPLE

03:48PM 25 1/1,000 THE SIZE OF A TYPICAL BLOOD DRAW'?"

03:48PM 1 DO YOU SEE THAT?

03:48PM 2 A. YES.

03:48PM 3 Q. AND THE ITEM 2 SAYS, "OUR REVOLUTION/OUR TECHNOLOGY -- 'A

03:49PM 4 TINY DROP IS ALL IT TAKES' -- WE OFTEN USE MORE THAN ONE DROP;

03:49PM 5 WE SHOULD SAY 'A FEW DROPS IS ALL IT TAKES,'" AND THEN OTHER

03:49PM 6 ALTERNATIVES ARE PROVIDED.

03:49PM 7 DO YOU SEE THAT?

03:49PM 8 A. YES.

03:49PM 9 Q. WHAT WAS YOUR UNDERSTANDING OF THE PURPOSE OF THESE

03:49PM 10 COMMENTS ON THE WEBSITE CONTENT?

03:49PM 11 A. THE PURPOSE WAS TO CORRECT ANY -- WAS TO PROPOSE CHANGES

03:49PM 12 THAT WOULD CORRECT ANY INACCURACIES OR INCONSISTENCIES WITH THE

03:49PM 13 WEBSITE CONTENT.

03:49PM 14 Q. OKAY. IF I COULD ASK YOU TO LOOK AT PAGE 4 OF THIS

03:49PM 15 EXHIBIT.

03:49PM 16 MS. WACHS, ZOOM IN ON THE TOP PART OF THE PAGE.

03:49PM 17 AND IT'S A LITTLE FAINT, BUT DO YOU SEE THAT CONTENT THAT

03:49PM 18 IS BEING COMMENTED ON, THE LANGUAGE OF THE NANOTAINER AND THEN

03:49PM 19 THE TEXT "AT THERANOS WE CAN PERFORM ALL LAB TESTS ON A SAMPLE

03:50PM 20 1/1,000 THE SIZE OF A TYPICAL BLOOD DRAW"?

03:50PM 21 A. YES.

03:50PM 22 Q. AT THIS TIME IN SEPTEMBER OF 2013, DID YOU KNOW WHETHER OR

03:50PM 23 NOT THAT STATEMENT WAS TRUE AS TO THE COMPANY'S TECHNOLOGY?

03:50PM 24 A. I DON'T THINK I HAD A BASIS TO MAKE AN ASSESSMENT ONE WAY

03:50PM 25 OR THE OTHER.

03:50PM 1 Q. OKAY. BELOW THE TEXT THAT WE'RE LOOKING AT HERE, THERE'S  
03:50PM 2 A LINE THAT SAYS, "A TINY DROP IS ALL IT TAKES."  
03:50PM 3 IS THAT ADDITIONAL TEXT THAT WAS BEING COMMENTED ON IN THE  
03:50PM 4 EMAIL THAT WE JUST LOOKED AT?  
03:50PM 5 A. YES.  
03:50PM 6 Q. LET'S GO DOWN A LITTLE BIT MORE ON THIS PAGE AND LOOK AT A  
03:50PM 7 SECTION WHERE THERE'S A TITLE, "HIGHEST LEVELS OF ACCURACY."  
03:50PM 8 A. YES.  
03:50PM 9 Q. AND THAT'S VERY DIFFICULT TO READ.  
03:50PM 10 BUT DO YOU SEE TEXT THERE THAT SAYS, "HIGHEST LEVELS OF  
03:51PM 11 ACCURACY," AND REFERS TO SYSTEMATICALLY ELIMINATING -- WELL, I  
03:51PM 12 WON'T TRY TO READ THAT.  
03:51PM 13 (LAUGHTER.)  
03:51PM 14 MR. BOSTIC: I WON'T INTERPRET THAT.  
03:51PM 15 THE COURT: THANK YOU, MR. BOSTIC.  
03:51PM 16 BY MR. BOSTIC:  
03:51PM 17 Q. LET'S KEEP IT TO THE TITLE.  
03:51PM 18 DO YOU SEE THE QUOTE THERE, "HIGHEST LEVELS OF ACCURACY"?  
03:51PM 19 A. YES.  
03:51PM 20 Q. IN YOUR ROLE THERE WORKING AT THERANOS, DID YOU HAVE THE  
03:51PM 21 OPPORTUNITY TO REVIEW THE ACTUAL PUBLIC WEBSITE OF THE COMPANY?  
03:51PM 22 A. YES.  
03:51PM 23 Q. AND SITTING HERE TODAY, DO YOU RECALL WHETHER THE WEBSITE  
03:51PM 24 ENDED UP MAKING CLAIMS ABOUT THE HIGHEST LEVELS OF ACCURACY?  
03:51PM 25 A. I DON'T RECALL THE SPECIFIC WORDING.

03:51PM 1 Q. OKAY. I'LL ASK YOU TO TURN TO TAB 3981, PLEASE.

03:52PM 2 AND LOOKING AT 3981, DO YOU SEE ANOTHER EMAIL CHAIN

03:52PM 3 INCLUDING YOU AND MS. HOLMES AND RELATING TO WEBSITE CONTENT?

03:52PM 4 A. YES.

03:52PM 5 MR. BOSTIC: YOUR HONOR, THE GOVERNMENT OFFERS 3981.

03:52PM 6 MS. WALSH: YOUR HONOR, THIS EXHIBIT HAS THE SAME

03:52PM 7 ISSUE AS THE LAST ONE. THERE ARE MULTIPLE LAYERS OF HEARSAY.

03:52PM 8 MR. BOSTIC: AND IT'S OFFERED FOR THE SAME PURPOSE,

03:52PM 9 YOUR HONOR.

03:52PM 10 THE COURT: NOTICE. NOTICE AS TO?

03:52PM 11 MR. BOSTIC: NOTICE AS TO WEBSITE CONTENT AND

03:52PM 12 POTENTIAL ISSUES WITH THE WEBSITE CONTENT.

03:52PM 13 THE COURT: ALL RIGHT. THANK YOU.

03:52PM 14 LADIES AND GENTLEMEN, THIS WILL BE ADMITTED NOT FOR THE

03:52PM 15 TRUTH OF THE MATTER ASSERTED, BUT SOLELY FOR THE ISSUE OF

03:52PM 16 NOTICE AS TO WEBSITE CONTENT AND ANY ISSUES THERETO, SOLELY FOR

03:52PM 17 THAT PURPOSE.

03:52PM 18 AND IT MAY BE PUBLISHED.

03:52PM 19 (GOVERNMENT'S EXHIBIT 3981 WAS RECEIVED IN EVIDENCE.)

03:53PM 20 MR. BOSTIC: AND LET'S START BY ZOOMING IN ON THE

03:53PM 21 BOTTOM HALF OF PAGE 1.

03:53PM 22 Q. DO YOU SEE, MR. EDLIN, AN EMAIL FROM SOMEONE NAMED

03:53PM 23 JAIME WOLSZON?

03:53PM 24 A. YES.

03:53PM 25 Q. AND DO YOU REMEMBER WHO JAMIE WOLSZON WAS IN RELATION TO

03:53PM 1 THERANOS?

03:53PM 2 A. I BELIEVE SHE'S AN OUTSIDE COUNSEL.

03:53PM 3 Q. AND SHE'S SENDING AN EMAIL TO SOMEONE NAMED KATE BEARDSLEY

03:53PM 4 WHOSE EMAIL ADDRESS IS @BEARDSLEYLAWPLLC.

03:53PM 5 DO YOU SEE THAT?

03:53PM 6 A. YES.

03:53PM 7 Q. AND THE EMAIL SAYS, "PLEASE FIND BELOW MY COMMENTS TO THE

03:53PM 8 THERANOS WEBSITE."

03:53PM 9 DO YOU SEE THAT?

03:53PM 10 A. YES.

03:53PM 11 Q. AND SHE WRITES A COUPLE OF SENTENCES LATER, "AS DISCUSSED,

03:53PM 12 THEY FALL WITHIN THE CATEGORIES OF SUBSTANTIATION FOR

03:53PM 13 SUPERLATIVE OR COMPARATIVE PERFORMANCE CLAIMS."

03:53PM 14 DO YOU SEE THAT?

03:53PM 15 A. YES.

03:53PM 16 Q. AND BEFORE WE LEAVE THIS PAGE, IF WE CAN JUST ZOOM IN ON

03:54PM 17 THE TOP HALF, AND DO YOU SEE THAT THE COMMENTS THAT WE ARE

03:54PM 18 ABOUT TO REVIEW WERE FORWARDED ON SEPTEMBER 6TH FROM MS. HOLMES

03:54PM 19 TO HER BROTHER AND TO SUNNY BALWANI?

03:54PM 20 A. YES.

03:54PM 21 Q. OKAY. LET'S LOOK AT WHAT THOSE COMMENTS ARE.

03:54PM 22 LET'S GO TO PAGE 2 OF THE EXHIBIT. AND LET'S ZOOM IN ON

03:54PM 23 THE TOP FIRST.

03:54PM 24 WE SEE HERE A BULLET POINT LIST OF COMMENTS TO THE WEBSITE

03:54PM 25 CONTENT; CORRECT?

03:54PM 1 A. YES.

03:54PM 2 Q. AND THE FIRST BULLET POINT SAYS, "PLEASE REMOVE REFERENCES

03:54PM 3 TO 'ALL' TESTS AND REPLACE WITH STATEMENTS SUCH AS 'MULTIPLE'

03:54PM 4 OR 'SEVERAL.' IT IS HIGHLY UNLIKELY THAT THE LABORATORY CAN

03:54PM 5 PERFORM EVERY CONCEIVABLE TEST, BOTH FROM A LOGISTICAL

03:54PM 6 STANDPOINT AND BECAUSE THE CLIA CERTIFICATION DESIGNATES

03:54PM 7 SPECIFIC SPECIALTIES OF TESTS THE LAB PERFORMS."

03:55PM 8 DO YOU SEE THAT?

03:55PM 9 A. YES.

03:55PM 10 Q. AND THE SECOND BULLET HAS A SIMILAR COMMENT. IT SAYS,

03:55PM 11 "FOR A SIMILAR REASON, REPLACE 'FULL RANGE' WITH 'BROAD

03:55PM 12 RANGE.'"

03:55PM 13 DO YOU SEE THAT?

03:55PM 14 A. YES.

03:55PM 15 Q. AND SITTING HERE TODAY, DO YOU RECALL WHAT THE THERANOS

03:55PM 16 WEBSITE ENDED UP SAYING ABOUT THE RANGE OF TESTS THAT COULD BE

03:55PM 17 PERFORMED?

03:55PM 18 A. I DON'T REMEMBER THE SPECIFIC WORDING.

03:55PM 19 Q. OKAY. WE CAN COME BACK TO THAT.

03:55PM 20 LET'S GO DOWN IN THE SAME BULLET POINT LIST.

03:55PM 21 AND THERE'S A LINE THAT SAYS "REPLACE 'FASTER AND

03:55PM 22 EASIER.'"

03:55PM 23 A. RIGHT.

03:55PM 24 Q. IT SAYS, "REPLACE 'FASTER AND EASIER' WITH 'FAST AND

03:55PM 25 EASY.'"

03:55PM 1 IS THIS A COMMENT SEEKING TO CHANGE ONE OF THOSE  
03:55PM 2 SUPERLATIVE CLAIMS REFERENCED ON THE PREVIOUS PAGE?  
03:55PM 3 A. YES.  
03:55PM 4 Q. THERE'S ANOTHER COMMENT THAT SAYS, "REPLACE 'HIGHEST  
03:55PM 5 QUALITY' WITH 'HIGH QUALITY.'"  
03:55PM 6 DO YOU SEE THAT?  
03:55PM 7 A. YES.  
03:55PM 8 Q. AND THEN THERE'S ONE THAT SAYS, "ENSURE SUBSTANTIATION FOR  
03:55PM 9 '4 HOURS OR LESS.'"  
03:56PM 10 DO YOU SEE THAT?  
03:56PM 11 A. YES.  
03:56PM 12 Q. SITTING HERE TODAY, DO YOU KNOW WHETHER THESE CHANGES WERE  
03:56PM 13 IN FACT MADE?  
03:56PM 14 A. I'M NOT SURE EXACTLY.  
03:56PM 15 Q. LET'S GO TO THE BOTTOM OF PAGE 2 AND ZOOM IN ON THE LAST  
03:56PM 16 FEW BULLET POINTS -- ACTUALLY START A LITTLE HIGHER. ACTUALLY  
03:56PM 17 THE BOTTOM FIVE OR SO.  
03:56PM 18 DO YOU SEE SOMETHING, MR. EDLIN, SOMETHING REFERENCING CV  
03:56PM 19 AT THE SECOND BULLET POINT THERE?  
03:56PM 20 A. YES.  
03:56PM 21 Q. IT SAYS "A CV OF LESS THAN 10 PERCENT COULD STILL BE TOO  
03:56PM 22 HIGH -- IT DEPENDS ON THE TEST."  
03:56PM 23 DO YOU SEE THAT?  
03:56PM 24 A. YES.  
03:56PM 25 Q. AND IT SAYS, "REPLACE 'HIGHEST LEVELS OF ACCURACY' WITH

03:57PM 1 'HIGH LEVELS OF ACCURACY.'"

03:57PM 2 DO YOU SEE THAT?

03:57PM 3 A. YES.

03:57PM 4 Q. LET'S GO TO PAGE 3 AND SEE A COUPLE MORE OF THESE

03:57PM 5 COMMENTS, AND LET'S ZOOM IN ON THE TOP. AND THE ADVICE TO

03:57PM 6 MS. HOLMES FORWARDED TO MR. BALWANI WAS TO, QUOTE, "CHANGE

03:57PM 7 'MORE PRECISE' TO 'PRECISE.'"

03:57PM 8 DO YOU SEE THAT IN THE THIRD BULLET POINT?

03:57PM 9 A. YES.

03:57PM 10 Q. AND LET'S GO TO PAGE 4 AND ZOOM IN ON THE TOP.

03:57PM 11 DO YOU SEE THE SECOND BULLET POINT READS, "ENSURE

03:57PM 12 SUBSTANTIATION FOR 'UNPRECEDENTED SPEED AND ACCURACY.'"

03:57PM 13 DO YOU SEE THAT ADVICE?

03:57PM 14 A. YES.

03:57PM 15 Q. AND LET'S LOOK AT THE BOTTOM OF THIS LIST.

03:57PM 16 AND DO YOU SEE THE SECOND TO THE BOTTOM CONTAINS THE

03:58PM 17 ADVICE TO MS. HOLMES AND MR. BALWANI TO REMOVE THE, QUOTE,

03:58PM 18 "UNRIVALLED ACCURACY"?

03:58PM 19 DO YOU SEE THAT?

03:58PM 20 A. YES.

03:58PM 21 Q. AND DO YOU KNOW WHETHER ANY OF THESE CHANGES WERE MADE TO

03:58PM 22 THE WEBSITE CONTENT?

03:58PM 23 A. I DON'T RECALL SPECIFICALLY.

03:58PM 24 Q. DO YOU KNOW WHETHER, SUBSEQUENT TO THIS TIME, MS. HOLMES

03:58PM 25 OR MR. BALWANI USED LANGUAGE SIMILAR TO THIS IN DESCRIBING THE

03:58PM 1 COMPANY'S TECHNOLOGY TO INVESTORS OF THE COMPANY?

03:58PM 2 A. YES.

03:58PM 3 Q. WHAT DO YOU KNOW ABOUT THAT?

03:58PM 4 A. I RECALL THAT SOME OF THIS SAME TERMINOLOGY WAS USED IN

03:58PM 5 MATERIALS THAT WERE INCLUDED IN INVESTMENT BINDERS THAT WERE

03:58PM 6 SENT TO INVESTORS OR POTENTIAL INVESTORS.

03:58PM 7 Q. THIS SAME LANGUAGE THAT THE DEFENDANT WAS ADVISED SHOULD

03:58PM 8 NOT BE ON THE WEBSITE?

03:58PM 9 A. I'M NOT SURE IF IT REFERS TO ALL OF THE INFORMATION WE

03:58PM 10 JUST REVIEWED, BUT I DO RECALL THAT THERE IS AT LEAST SOME OF

03:59PM 11 THIS INFORMATION.

03:59PM 12 Q. OKAY. I'D LIKE TO TAKE A LOOK AT SOME OF THAT WITH YOU.

03:59PM 13 BUT THIS MIGHT BE A GOOD TIME TO BREAK FOR THE DAY,

03:59PM 14 YOUR HONOR.

03:59PM 15 THE COURT: ALL RIGHT. LET'S DO THAT.

03:59PM 16 LET'S BREAK -- WE'LL TAKE OUR LONG WEEKEND RECESS, LADIES

03:59PM 17 AND GENTLEMEN.

03:59PM 18 PLEASE RECALL THAT WE WILL NOT BE IN SESSION TOMORROW, NOR

03:59PM 19 FRIDAY.

03:59PM 20 WE WILL NEXT BE TOGETHER ON APRIL 12TH, APRIL 12TH AT

03:59PM 21 9:00 A.M.

03:59PM 22 I ONCE AGAIN REMIND YOU OF THE ADMONISHMENT. PLEASE DO

03:59PM 23 NOT DISCUSS THIS CASE, LEARN ANYTHING ABOUT THIS, OR IN ANY WAY

03:59PM 24 COME ACROSS ANY INFORMATION ABOUT THIS CASE.

03:59PM 25 I'LL ASK YOU THAT QUESTION WHETHER ANY OF THOSE THINGS

03:59PM 1 OCCURRED WHEN WE NEXT GET TOGETHER ON THE 12TH.

03:59PM 2 LET ME ALSO TELL YOU THAT MY SENSE IS THAT ON THE 12TH WE

03:59PM 3 MIGHT HAVE A SEATING CHANGE. AND, OF COURSE, I HAVE NOT TOLD

03:59PM 4 MS. ROBINSON THAT WE WILL DO THAT, BUT WHAT WE EXPECT TO DO IS

04:00PM 5 TO ALLOW OUR DEAR FRIENDS IN THE PEWS OUT THERE, IN THE

04:00PM 6 COMFORTABLE WOOD SEATS, TO MOVE INTO THE FIRST CLASS, BUSINESS

04:00PM 7 CLASS SECTION HERE, AND WE'LL ROTATE FOLKS DOWN ACCORDINGLY.

04:00PM 8 (LAUGHTER.)

04:00PM 9 THE COURT: SO WE'LL COORDINATE ALL OF THAT NEXT

04:00PM 10 WEEK FOR YOU, BUT WE'LL START THAT NEXT WEEK.

04:00PM 11 SO HAVE A GREAT LONG WEEKEND. ENJOY, AND WE'LL SEE YOU

04:00PM 12 SOON. THANK YOU. SEE YOU TUESDAY.

04:00PM 13 AND, MR. EDLIN, IF YOU COULD RETURN ON THE 12TH AT

04:00PM 14 9:00 A.M., THAT WOULD BE GREAT.

04:00PM 15 THE WITNESS: YES, YOUR HONOR.

04:00PM 16 (JURY OUT AT 4:00 P.M.)

04:00PM 17 THE COURT: ALL RIGHT. PLEASE BE SEATED. THANK

04:00PM 18 YOU.

04:00PM 19 THE RECORD SHOULD REFLECT THAT OUR JURY HAS LEFT FOR THE

04:01PM 20 WEEKEND, AND MR. EDLIN HAS LEFT THE COURTROOM.

04:01PM 21 COUNSEL AND MR. BALWANI ARE PRESENT.

04:01PM 22 I JUST WANTED TO INDICATE ON THE RECORD, THE COURT DID

04:01PM 23 ALLOW 291 TO COME IN, 259 TO COME IN, OVER -- I DO WANT TO

04:01PM 24 MEMORIALIZE MS. WALSH'S OBJECTIONS, AS WELL AS MEMORIALIZING

04:01PM 25 THE CONVERSATIONS THAT WE HAD PREVIOUSLY WITH COUNSEL REGARDING

04:01PM 1 1237, WHICH WAS THE MOTION TO EXCLUDE THIS EVIDENCE.

04:01PM 2 THE COURT ALLOWED, AS THE RECORD REFLECTS, THIS TO COME IN

04:01PM 3 FOR A VERY LIMITED PURPOSE, A LIMITED PURPOSE OF KNOWLEDGE

04:01PM 4 ONLY, AS MR. BALWANI WAS A RECIPIENT, AMONGST OTHERS, OF AN

04:01PM 5 EMAIL THAT CONTAINED THAT.

04:01PM 6 IT WAS NOT ADMITTED FOR ANY OTHER PURPOSE, AND ANY OTHER

04:02PM 7 ADDITIONAL USE OF THAT INFORMATION HAS YET TO BE DETERMINED.

04:02PM 8 SO IT WAS ADMITTED SOLELY FOR THAT LIMITED PURPOSE OF

04:02PM 9 KNOWLEDGE.

04:02PM 10 IN DOING SO, THE COURT ALSO -- THERE WAS A 403 OBJECTION

04:02PM 11 BY MS. WALSH.

04:02PM 12 THE COURT FOUND, AND DOES FIND, THAT THE PROBATIVE VALUE

04:02PM 13 AS TO THE KNOWLEDGE ISSUE, AGAIN, THAT LIMITED KNOWLEDGE ISSUE,

04:02PM 14 OUTWEIGHS ANY PREJUDICIAL IMPACT, UNFAIR PREJUDICIAL IMPACT

04:02PM 15 THAT ADMISSION OF THAT EVIDENCE FOR THAT LIMITED PURPOSE

04:02PM 16 CARRIES.

04:02PM 17 SO I JUST WANTED TO SUBSTANTIATE THE COURT'S RULING ON

04:02PM 18 THAT NOW THAT WE'RE OUTSIDE OF THE PRESENCE OF THE JURY.

04:02PM 19 SO HAVE A GOOD WEEKEND EVERYONE. WE'LL SEE YOU NEXT WEEK.

04:02PM 20 I THINK IT'S GOING TO BE WARM THIS WEEK, SO ENJOY, AND WE'LL

04:02PM 21 SEE YOU SOON.

04:02PM 22 THANK YOU.

04:02PM 23 MR. BOSTIC: THANK YOU.

04:02PM 24 MR. SCHENK: THANK YOU.

04:02PM 25 MR. CAZARES: THANK YOU, YOUR HONOR.

04:02PM 1 MR. COOPERSMITH: THANK YOU, YOUR HONOR.

04:02PM 2 (COURT ADJOURNED AT 4:02 P.M.)

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3 CERTIFICATE OF REPORTERS  
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7 WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE  
8 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
9 CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO  
10 HEREBY CERTIFY:

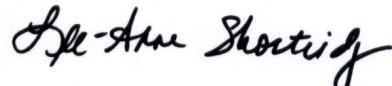
11 THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS  
12 A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
13 ABOVE-ENTITLED MATTER.

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IRENE RODRIGUEZ, CSR, CRR  
17 CERTIFICATE NUMBER 8076  
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LEE-ANNE SHORTRIDGE, CSR, CRR  
20 CERTIFICATE NUMBER 9595  
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22 DATED: APRIL 6, 2022  
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